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Monday
June 15, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Chicago, IL, and Boston, MA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

WHEN: July 8, at 9 a.m.
WHERE: Room 204A,
Everett McKinley Dirksen Federal Building,
219 S. Dearborn Street,
Chicago, IL.
RESERVATIONS: Call the Chicago Federal Information Center, 312–353–0339.

BOSTON, MA

WHEN: July 15, at 9 a.m.
WHERE: Main Auditorium, Federal Building,
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Boston, MA.
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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 100 and 103

[INS Number: 1016-87]

Statement of Organization; Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Service closed its office in Naples, Italy on February 1, 1987, and opened a new office in New Delhi, India on the same date to provide for more efficient management and administration of its overseas operations.

EFFECTIVE DATE: February 1, 1987.

FOR FURTHER INFORMATION CONTACT: Bruce J. Nicholl, Immigration Inspector, Office of Refugee, Asylum and Parole, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-5463.

SUPPLEMENTARY INFORMATION: The Service closed its office in Naples, Italy on February 1, 1987, and opened a new office in New Delhi, India on the same date to provide for more efficient management and administration of its overseas operations. Minor editoral changes have been made to more accurately reflect geographical locations.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not a rule within the meaning of section 1(a) of E.O. 12291 as it relates to agency organization and management.

List of Subjects

8 CFR Part 100

Organization and functions (Government agencies).

8 CFR Part 103

Administrative practice and procedure, Authority delegation (Government agencies).

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. The authority citation for Part 100 continues to read as follows:

Authority: 8 U.S.C. 1103.

2. In § 100.4 paragraph (c)(4) is revised as follows:

§ 100.4 Field service.

* * * * *

(c) * * *

(4) *Immigration offices in foreign countries:*

Athens, Greece
Bangkok, Thailand
Calgary, Alberta, Canada
Frankfurt, Germany
Freeport, Bahamas
Guadalajara, Mexico
Hamilton, Bermuda
Hong Kong
Manila, Philippines
Mexico City, Mexico
Monterrey, Mexico
Montreal, Quebec, Canada
Nassau, Bahamas
New Delhi, India
Ottawa, Ontario, Canada
Panama City, Republic of Panama
Rome, Italy
Seoul, Korea
Singapore, Republic of Singapore
Toronto, Ontario, Canada
Vancouver, British Columbia, Canada
Victoria, British Columbia, Canada
Vienna, Austria
Winnipeg, Manitoba, Canada

* * * * *

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for Part 103 continues to read as follows:

Authority: 5 U.S.C. 552(A); 8 U.S.C. 1101, 1103, 1201, 1301-1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; U.S.C. 2243; 31 U.S.C. 9701.

2. In § 103.1, paragraph (o)(2) is revised as follows:

§ 103.1 Delegations of authority.

* * * * *

(o) * * *

(2) The officers in charge of the offices located in Frankfurt, Germany; Athens, Greece; Rome, Italy; New Delhi, India; Vienna, Austria; Manila, Philippines; Seoul, Korea; Singapore, Republic of Singapore; Bangkok, Thailand; Hong Kong; Mexico City, Mexico; Guadalajara, Mexico; Monterrey, Mexico; and Panama City, Republic of Panama, are authorized to perform the following functions: Authorize waivers of grounds of excludability under sections 212 (h) and (i) of the Act; adjudicate applications for permission to reapply for admission to the United States after deportation or removal if filed by an applicant for an immigrant visa in conjunction with an application for waiver of grounds of excludability under section 212 (h) or (i) of the Act, or if filed by an applicant for a nonimmigrant visa under section 101(a)(15)(K) of the Act; approve visa petitions of any immediate relative or preference status except third and sixth preference; in cases in which the Department of State had delegated recommending power to the consular officers, approve recommendations made by consular officers for waiver of grounds of excludability in behalf of nonimmigrant visa applicants under section 212(d)(3) of the Act and concur in proposed waivers by consular officers of the requirement of visa or passport by a nonimmigrant on the basis of unforeseen emergency; exercise discretion to grant applications for the benefits of sections 211 and 212(c) of the Act; process Form I-90 applications and deliver duplicate Forms I-551; and process Form N-565 applications and deliver certificates issued thereunder; and may consider applications of aliens seeking classification as refugees under section 207 of the Act.

* * * * *

Dated: June 10, 1987.

Thomas C. Ferguson,

Deputy Commissioner, Immigration and Naturalization Service.

[FR Doc. 87-13621 Filed 6-12-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ASW-6; Amdt. 39-5602]

Airworthiness Directives; Sikorsky Model S-76 A/B Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one-time inspection of the numbers 1 and 2 dc generator ground and power path connections for security and corrosion and relocation of the dc Generator Control Unit (GCU) ground on Sikorsky Model S-76A/B series helicopters. This AD is needed to prevent loss of power to the electrical bus which could result in loss of the helicopter.

EFFECTIVE DATE: June 10, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 10, 1987. Compliance: As indicated in body of AD.

ADDRESSES: The applicable Alert Service Bulletin (ASB) may be obtained from Sikorsky Aircraft, 6900 North Main Street, Stratford, Connecticut 06601-1381.

A copy of the applicable alert service bulletin is contained in the Rules Docket, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Wayne E. Gaulzetti, Boston Aircraft Certification Office, ANE-153, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 273-7102.

SUPPLEMENTARY INFORMATION: During a flight, an S-76 had a total electrical power failure which resulted in crew confusion. The FAA determined that loss of the dc generator ground may result in power loss to the associated electrical bus with the current GCU ground configuration on Sikorsky Model S-76 A/B series helicopters. Since this condition is likely to develop on other helicopters of the same type design, an airworthiness directive is being issued which requires inspection of the dc generator ground for security and corrosion and relocation of the GCU ground.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Sikorsky Aircraft: Applies to all Model S-76 A/B series helicopters, certified in all categories.

Compliance is required within the next 25 hours' time in service unless already accomplished.

To prevent possible loss of electrical power due to dc generator ground failure, accomplish the following:

(a) Perform inspection to determine the wiring configuration and connections of the GCU. Inspect the ground and power path connections of both generators for corrosion and proper torque, and inspect the ground connections of the GCU to determine their configuration. Modify and repair, as necessary. Accomplish these inspections and modifications in accordance with the Sikorsky Alert Service Bulletin, ASB-76-24-8, dated January 30, 1987.

(b) Upon request, with substantiating data, an alternate means of compliance which provides an equivalent level of safety or adjustment in the compliance time may be used when approved by the Manager, Boston Aircraft Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803.

These procedures shall be accomplished in accordance with Sikorsky ASB-76-24-8; dated January 30, 1987. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a)(1). Copies may be obtained from Sikorsky Aircraft, 6900 North Main Street, Stratford, Connecticut 06601-1381. Copies may be inspected at the Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective June 10, 1987.

Issued in Fort Worth, Texas, on April 3, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-13520 Filed 6-10-87; 10:08 a.m.]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AWP-9]

Revision to Red Bluff, CA; Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Red Bluff, California, transition area. The present Red Bluff transition area description also describes the Redding, California, transition area. This action consists of two separate actions: Establishing a separate Redding, California, transition area description; revising the description of the Red Bluff transition area to establish an additional 1,200 feet transition area northeast of the Red Bluff VORTAC. The additional 1,200 feet transition area northeast of Red Bluff VORTAC will provide controlled airspace for turbojet aircraft climbing in the holding patterns at ITMOR and BAUDR intersections.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and

Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297–1648.

SUPPLEMENTARY INFORMATION:

History

On March 10, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Red Bluff, California, transition area (52 FR 7279). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Red Bluff transition area description. This action establishes a separate Redding, California, transition area description and establishes an additional 1,200 feet transition area northeast of the Red Bluff VORTAC. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71), is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E. O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Red Bluff, CA [Revised]

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Red Bluff VORTAC 347° radial extending from the VORTAC to 11.5 miles N of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Red Bluff VORTAC; within 9 miles each side of the Red Bluff VORTAC 291° radial, extending from the 20-mile radius area to 52 miles W of the VORTAC; within an arc of a 30-mile radius circle centered on Red Bluff VORTAC, extending from the N edge of V-195 to the W edge of V-23; within 9 miles W and 10 miles E of the Red Bluff VORTAC 342° radial, extending from the 20-mile radius area to 67 miles N of the VORTAC; within 10 miles W and 6 miles E of the Red Bluff VORTAC 015° radial, extending from the 20-mile radius area to 56 miles N of the Red Bluff VORTAC; within an area bounded by a line beginning at lat. 40°41'27"N., long. 121°54'40"W.; to lat. 40°34'40"N., long. 121°52'30"W.; to lat. 40°21'46"N., long. 121°56'45"W.; to lat. 40°22'35"N., long. 122°01'00"W.; to the point of beginning; and that airspace NE and E of Red Bluff within an arc of a 24-mile radius circle centered on the Red Bluff VORTAC, extending from the Red Bluff VORTAC 015° radial clockwise via the 24-mile arc to lat. 40°00'00"N.

Redding, CA [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Redding Municipal Airport (lat. 40°30'33"N., long. 122°17'32"W.) within 2 miles W and 4 miles E of the Redding VOR 192° radial, extending from the 5-mile radius area to 10 miles S of the VOR, within 2 miles each side of the Redding ILS localizer N course, extending from the 5-mile radius area to 8 miles N of the threshold of Runway 16, excluding the portions within a 1-mile radius of Redding Sky Ranch Airport (lat. 40°29'55"N., long. 122°22'35"W.) and Enterprise Sky Park (lat. 40°34'40"N., long. 122°19'15"W.); and that airspace extending upward from 1,200 feet above the surface north of Redding within an arc of a 23-mile radius circle centered on Redding VOR, extending from the E edge of V-23 to the W edge of V-25.

Issued in Los Angeles, California, on June 2, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87–13522 Filed 6–12–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 399

[Docket No. 70596–7096]

Clarifications to the Export Administration Regulations

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, makes the following editorial clarifications:

(1) References to Form ITA–687, Notification of Rejection of Export License Application, are removed from Part 373 of the Regulations. The Form is obsolete and is no longer used by the Office of Export Licensing.

(2) A paragraph in entry 1355A of the Commodity Control List (CCL), a listing of those items subject to Department of Commerce export controls, is revised to correct an erroneous description of certain equipment covered by that entry.

(3) Entry 1521A of the CCL is amended by removing outdated wording inadvertently retained in the entry following an earlier revision.

(4) Entry 1572A of the CCL is amended by clarifying that certain items listed there do *not* require a validated license for export.

(5) Entries 1648A and 1661A of the CCL are amended by inserting wording that has been inadvertently omitted from those entries.

(6) Entry 1733A of the CCL is amended by revising the *GLV $ Value Limit* paragraph for the sake of clarity.

EFFECTIVE DATE: This rule is effective June 15, 1987.

FOR FURTHER INFORMATION CONTACT: John Black or Patricia Muldonian, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377–2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 15 CFR Parts 373 and 399

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR Parts 368 through 399) are amended as follows:

PARTS 373 AND 399—[AMENDED]

1. The authority citation for 15 CFR Parts 373 and 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 92–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985) (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 (October 2, 1986); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. Paragraphs (d)(3) and (e)(4)(ii) of § 373.2 are revised to read as follows:

§ 373.2 Project license.

* * * * *

(d) * * *

(3) *Rejected applications.* When the Office of Export Licensing intends to reject an application for a Project License, it will notify the applicant in writing and give the reason for the intended rejection in accordance with the provisions of § 370.13(j). The applicant may apply for an individual or other appropriate type of validated license for transactions that would have been covered by the rejected Project License application.

* * * * *

(e) * * *

(4) * * *

(ii) *Rejection.* When the Office of Export Licensing intends to reject a request for extension, it will hold the original of Form ITA–622P or ITA–685P and return the duplicate and triplicate copies to the applicant. The Office of Export Licensing will notify the applicant in writing of the reasons for the intended rejection in accordance with the provisions of § 370.13(j).

* * * * *

3. Paragraph (f)(5) of § 373.3 is revised to read as follows:

§ 373.3 Distribution license.

* * * * *

(f) * * *

(5) *Rejected applications.* When the Office of Export Licensing intends to reject an application for a Dsitribution License, it will notify the applicant in writing and give the reasons for the intended rejection in accordance with the provisons of § 370.13(j). The applicant may apply for an individual or other appropriate type of validated license for transactions that would have been covered by the rejected Distribution License applications.

* * * * *

4. Paragraph (f)(3) of § 373.7 is revised to read as follows:

§ 373.7 Service Supply (SL) procedure.

* * * * *

(f) * * *

(3) *Rejected applications.* When the Office of Export Licensing intends to reject an application for an SL License, it will notify the applicant in writing and give the reasons for the intended rejection in accordance with the provisions of § 370.13(j). The applicant may apply for an individual or other appropriate type of validated license for transactions that would have been covered by the rejected SL License application.

* * * * *

§ 399.1 [Amended]

5. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1355A is amended by revising paragraph (b)(4)(iii) to read "Equipment for line-width measurement with a resolution of 1.0 micrometer or finer;".

6. In Supplmeent No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1521A is amended by removing the heading "List of Amplifiers and Related Equipment Controlled by ECCN 1521A", removing paragraphs (a) through (c) under that heading, and removing the phrase "(Specify by name and model number.)" that follows paragraph (c).

7. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1572A is amended by revising the phrase "as follows" in paragraph (b) to read "except".

8. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals, and Their Manufactures), ECCNs 1648A and 1661A are amended by adding the word "or" at the end of paragraph (a).

9. In Supplement No.1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1733A is amended by revising the *GLV $ Value Limit* paragraph to read: "$0 for all items in subparagraphs (d)(1), (2), and (3) to all destinations; $2,000 for all other items to Country Groups T & V, except $0 to the People's Republic of China."

Dated: June 10, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87–13584 Filed 6–12–87; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission's Appliance Labeling Rule requires that the table in § 305.9, which sets forth the representative average unit energy costs for four residential energy sources, be revised periodically on the basis of updated information provided by the Department of Energy ("DOE").

This notice revises the table to incorporate the latest figures for average unit energy costs as published in the **Federal Register** on April 2, 1987 by DOE.

EFFECTIVE DATE: The revised Table 1 is effective June 15, 1987. The mandatory dates for using these revised DOE cost figures are detailed below.

FOR FURTHER INFORMATION CONTACT: James Mills, 202–326–3035 or Neil J. Blickman, 202–326–3038, attorneys, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule (44 FR 66466) in response to a directive in section 324 of the Energy Policy and Conseration Act ("EPCA"), 42 U.S.C. 6201 (1975). The rule requires the disclosure of energy efficiency or cost information on labels and in retail sales catalogs for seven categories of appliances, and mandates that these energy costs or energy efficiency ratings be based on standardized test procedures developed by DOE. The rule also requires a general disclosure, on certain point-of-sale promotional materials, of the availability of energy cost or energy efficiency information, and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on results of the standardized test procedures. The cost and efficiency information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE.

Table 1 in § 305.9 of the rule sets forth the representative average unit energy costs to be used for all requirements of the rule. As stated in § 305.9(b), the Table is intended to be revised periodically on the basis of updated information provided by DOE. Table 1 was first revised by publication of new DOE figures on January 13, 1981 in the **Federal Register** (46 FR 2974).

On April 2, 1987, DOE published (52 FR 10606) the most recent figures for representative average unit energy costs. Consequently, Table 1 must again be updated in order to reflect these latest cost figures. Accordingly, in § 305.9(a), Table 1 is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) * * *

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FOUR RESIDENTIAL ENERGY SOURCES (1987)

Type of energy	In common terms	As required by DOE test procedure	Dollars per million Btu [1]
Electricity	7.94¢/KwHh[2,3]	$0.0794/kWh	$23.27
Natural Gas	56.2¢/therm [4] or $5.80/MCF [5,6].	0.00000562/Btu	5.62
No. 2 heating oil	$0.80/gallon [7]	0.00000576/Btu	5.76
Propane	70¢/gallon [8]	0.00000769/Btu	7.69

[1] Btu stands for British thermal unit.
[2] kWh stands for kilowatt hour.
[3] 1 kWh=3,412 Btu.
[4] 1 therm=100,000 Btu.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,032 Btu.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,000 Btu.

* * * * *

The dates when use of these figures becomes mandatory in calculating cost disclosures for use in reporting, labeling and advertising products covered by the Commission's rule and/or EPCA are as follows:

For 1987 Submissions of Data Under § 305.8 of the Commission's Rule

The new cost figures must be used in all 1987 submissions except clothes washers. Because the 1987 costs were not in effect on the mandatory submission date for these products, clothes washer submissions, which were due March 1, 1987, for 1987 could have been based on last year's (1986) cost figures.

For Labeling and Advertising of Products Under the Commission's Rule

Only those products for which new ranges are published that are based on 1987 submissions using these 1987 DOE cost figures should be labeled with estimated annual cost figures calculated using these 1987 DOE cost figures. If such new ranges are published, the effective date for labeling new products will be ninety days after publication of the ranges in the **Federal Register.** Advertising for such products will also have to be based on the new costs and ranges beginning ninety days after publication of the new ranges in the **Federal Register.**

Advertising of Products Covered by EPCA but not by the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, humidifiers and dehumidifiers, central air conditioners, and space heaters) must use the 1987 representative average unit costs for energy in all representations effective September 14, 1987.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority: Sec. 324 of the Energy Policy and Conservation Act, (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), 42 U.S.C. 6294; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Emily H. Rock,

Secretary.

[FR Doc. 87–13439 Filed 6–12–87; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 5 and 31

Fees for Contract Market Designation; Audits of Leverage Transaction Merchants and Leverage Commodity Registration; Final Schedule

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: The Commission periodically reviews the fees contained in its regulations in order to adjust fees to reflect current cost data. The staff has recently reviewed the actual costs for audits of leverage transaction merchants (17 CFR Part 31, Appendix B), contract market designations (17 CFR Part 5, Appendix B) and registration of leverage commodities (17 CFR Part 31, Appendix A), and has determined that fees for these services should be changed. Fees for audits of leverage transaction merchants are being raised from $8,000 to $9,000 per year and contract market designation fees are being raised from $14,000 to $17,000. The Commission also determined that the fee for registration of a leverage commodity should be reduced from $3,500 to $3,000 in order to reflect actual costs.

EFFECTIVE DATE: August 14, 1987.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone number 202–254–6090.

SUPPLEMENTARY INFORMATION: The Commission periodically reviews the actual costs of providing services for which fees are charged and adjusts its fees accordingly. The Commission has recently undertaken such a review and has determined that fees for audits of leverage transaction merchants and contract market designations should be raised and that fees for registration of leverage commodities should be reduced to reflect the actual costs of providing these services.

I. Computation of Fees

In calculating the actual cost of designating contract markets, auditing leverage transaction merchants and registering leverage commodities, the Commission first determined personnel costs by extracting data from the agency's Budget Account Code (BAC) system. Employees of the Commission record the time spent on each project under the BAC system. The Commission then added an overhead factor for benefits, including retirement, insurance and leave, based on a government-wide standard, and an overhead factor for general and administrative costs, such as space, equipment and utilities which is derived by computing the percentage of Commission appropriations spent on these non-personnel items. As noted in its last review of actual costs (*See* 51 FR 21149, June 11, 1986), the Commission had previously used a total overhead factor of 45% until calculation of the 1986 fee, at which point the overhead factor was changed in accordance with OMB Circular A–76. Therefore, for the purpose of calculating the 1987 fees, a 45% overhead factor was applied to personnel costs for FY 1984 whereas for the FY 1985 and FY 1986 personnel costs, 98% and 104% overhead factors were applied, respectively. The FY 1985 overhead factor consists of 55% for government-wide benefits and leave and 43% for CFTC non-personnel costs. In the FY 1986 calculation, these calculations were 55% and 49%. The Commission anticipates minor fluctuations in the overhead calculations due to changes in government-wide benefits and in the percentage of Commission appropriations applied to non-personnel costs from year to year.

Once the total personnel costs and overhead for each project had been determined, the costs for FY 1984, FY 1985 and FY 1986 were averaged. This resulted in a calculation of the actual average cost for each project over the three-year period, which is the basis for the fee for that project.

II. Leverage Audit Fee

The Commission reviewed the costs of auditing leverage transaction merchants and found that the actual average cost of an audit between FY 1984 and FY 1986 was $15,461. However, because there are only three firms and three years of audits on which to base a cost analysis, the Commission has determined that the fee should be raised only $1,000, from $8,000 to $9,000. The $9,000 fee will be due from each leverage transaction merchant within 60 days after publication of this notice. In addition, the Commission is revising 17 CFR Part 31, Appendix B, to reflect only the formula for the calculation of the annual leverage audit fee. This will allow the Commission to revise the fee for audits of leverage transaction merchants through publication in the **Federal Register** rather than through an amendment to the Commission's regulations.

III. Contract Market Designations

A review of actual costs for contract market designations for FY 1984, FY 1985 and FY 1986 revealed that the average cost for review of a contract market designation over the three year period was $17,575. Therefore, the Commission is raising the fee for appilications for contract market designation to $17,000, in accordance with the formula in the Commission's regulations (17 CFR Part 5, Apendix B). The new fee will be effective 60 days from publication of this notice and is due with each application. The Commission is amending 17 CFR Part 5, Appendix B, to allow revision of the fee for contract market designation through publication in the **Federal Register** rather than through amendment to the Commission's regulations.

IV. Leverage Commodity Registration

The Commission reviewed actual costs for leverage commodity registration (see 17 CFR Part 31, Appendix A) for FY 1984, FY 1985 and FY 1986 and determined that the actual average cost for such registrations was $3,454. The Commission's actual costs for leverage commodity registrations have declined since the last time these costs were reviewed. Therefore, the Commission is reducing the fee for registration of a leverage commodity from $3,500 to $3,000, effective 60 days after publication of this notice. The Commission is amending 17 CFR Part 31, Appendix A, to allow revision of the fee for registration of a leverage commodity through publication in the **Federal Register** rather than through amendment to the Commission's regulations.

V. Regulatory Flexibility Act

The changes proposed in this release affect contract markets (also referred to as "exchanges") and leverage transaction merchants. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 47 FR 18618 (April 30, 1982). Similarly, because of the minimum financial requirements for registration, leverage transaction merchants are also not considered "small entities" by the Commission. Therefore, the requirements of the Regulatory Flexibility Act do not apply to contract markets or leverage transaction merchants. Accordingly, the Chairman, on behalf of the Commission, certifies that the fees implemented herein do not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Parts 5 and 31

Contract market designation, Audits of leverage transaction merchants,

Registration of leverage commodities, Fees.

For the reasons set out in the preamble, Title 17, Parts 5 and 31, are amended as set forth below:

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

1. The authority citation for Part 5 continues to read as follows:

Authority: 7 U.S.C. 6c(c), 7, 7a, 12a(5) and 16a, 31 U.S.C. 9701.

Appendix B [Amended]

2. Appendix B, paragraph (a) is revised to read as follows:

(a) Applications for contract market designation. Each application for designation must be accompanied by a check or money order made payable to the Commodity Futures Trading Commission in an amount to be determined annually by the Commission and published in the **Federal Register.**

* * * * *

PART 31—LEVERAGE TRANSACTIONS

1. The authority citation for Part 31 continues to read as follows:

Authority: 7 U.S.C. 6c(c), 7, 7a, 12a(5) and 16a, 31 U.S.C. 9701.

Appendix A [Amended]

2. Appendix A, paragraph (a) is revised to read as follows:

(a) Each application for registration of a leverage commodity must be accompanied by a check or money order made payable to the Commodity Futures Trading Commission in an amount to be determined annually by the Commission and published in the **Federal Register.**

* * * * *

Appendix B [Amended]

3. Appendix B, paragraph (a) is revised to read as follows:

(a) Each leverage transaction merchant which is not a member of a self-regulatory organization with rules providing for the auditing of such a firm shall pay an annual audit fee, the amount of which will be published annually by the Commission in the **Federal Register.** The fee will be due within 60 days of notice by check or money order made payable to the Community Futures Trading Commission.

* * * * *

Issued in Washington, DC, on June 9, 1987, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 87-13552 Filed 6-12-87; 8:45 am]

BILLING CODE 6351-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning July 1, 1987. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The PBGC adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after July 1, 1987, and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Corporate Policy and Regulations Department, Code 35400, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PBGC's regulation on the valuation of plan benefits in single-employer plans (29 CFR Part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Although the amendments to Title IV effected by the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") change significantly the rules for terminating single-employer plans, the valuation rules are much the same. (SEPPAA applies to all plan terminations initiated or after January 1, 1986.) Under amended ERISA section 4041(c), all plans wishing to terminate in a distress termination (like all insufficient plans under prior law) must value guaranteed benefits and (new under SEPPAA) benefit commitments under the plan using the formulas set forth in Part 2619. Plans terminating in a standard termination may, for purposes of the notice given to the PBGC, use these formulas to value benefit commitments, although this is not required. (Such plans may value benefit commitments that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Appendix B in Part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since June 1, 1987 (52 FR 18354 (May 15, 1987)). Changes in the financial and annuity markets now require an increase in those rates. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after July 1, 1987, which set reflects an increase of ¼ percent in the immediate interest rate to 7¾ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that data as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after July 1, 1987, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition,

employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362, as amended by secs. 11004(a), 11007–11009, 11016(c)(12)–(c)(13) and 11011(a), Pub. L. 99–272, 100 Stat. 239–240, 244–252, 274 and 253–257.

2. Rate Set 68 of Appendix B is revised and Rate Set 69 of Appendix B is added to read as follows. The introductory text is republished.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_v" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*	*	
68	6–1–87	7–1–87	7.50	1.0675	1.0550	1.0400	7	8
69	7–1–87	.....	7.75	1.0700	1.0575	1.0400	7	8

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87–13534 Filed 6–12–87; 8:45 am]
BILLING CODE 7708–01–M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employer Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of July 1987.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35400), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202–778–8850 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.).

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533(b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month:	The values of i_k are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
*	*			*		*		*			*			*		
July 1987.....	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87–13536 Filed 6–12–87; 8:45 am]

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

[Docket No. CRT 87-3-87MRA]

1987 Adjustment of the Mechanical Royalty Rate

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: This rule adopts a mechanism for adjusting the mechanical royalty rate every two years, from 1987 to 1997, based upon changes in the Consumer Price Index. This rule is based upon a proposal submitted by parties with a significant interest in the rate.

EFFECTIVE DATE: July 15, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036, (202) 653-5175).

SUPPLEMENTARY INFORMATION: Sections 801(b)(1) and 804 of the Copyright Act of 1976 authorize the Copyright Royalty Tribunal (Tribunal) to adjust the mechanical royalty rate in 1987 upon receiving a petition from a party with a significant interest in the royalty rate. On March 18, 1987, the Tribunal received such a petition from the National Music Publishers' Association, Inc., The Songwriters Guild of America, and the Recording Industry Association of America, Inc. On April 7, 1987, the Tribunal proposed to adjust the mechanical royalty rate according to the mechanism provided by the parties in their petition. *Notice of Proposed Rulemaking*, Docket No. 87-3-87MRA, 52 FR 11096 (April 7, 1987). Briefly stated, the proposed rule calls for adjustments of the mechanical royalty rate to be published in the **Federal Register** every two years (November 1, 1987, November 1, 1989, November 1, 1991, November 1, 1993, November 1, 1995). The adjustment would be based solely upon changes in the Consumer Price Index (CPI), except when the CPI has declined, in which case the mechanical rate would remain the same, or when the Index has risen by more than 25%, in which case the mechanical rate adjustment would be no greater than 25%.

The tribunal received joint comments filed by the National Music Publishers Association, Inc., The Songwriters Guild of America, and the Recording Industry Association of America, Inc. supporting the proposal. Similarly, the Tribunal received comments from SESAC, Inc., a performing rights society which also represents mechanical rights for a significant number of its publisher affiliates, and from Music Royalties Ltd., a company representing the mechanical rights in approximately 50,000 musical compositions. SESAC, Inc. and Music Royalties Ltd. support the proposed rule. The proposal is therefore adopted unchanged as a final rule.

List of Subjects in 37 CFR Part 307

Copyright, Music, Recordings.

PART 307—[AMENDED]

For the reasons set forth in the preamble, the Tribunal amends 37 CFR Part 307 as follows:

1. The authority citation for Part 307 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 804.

§ 307.3 [Amended]

2. Section 307.3(a) is amended by removing the words "paragraphs (b) and (c) of this section." from the end, and by adding in their place the words "paragraphs (b), (c), (d) and (e) of this section."

3. Section 307.3(b) is amended by removing the words "paragraph (c) of this section." and adding in their place the words "paragraphs (c), (d) and (e) of this section."

4. Section 307.3(c) is amended by adding the words ", subject to further adjustment pursuant to paragraphs (d) and (e) of this section." at the end.

5. A new § 307.3(d) is added to read as follows:

* * * * *

(d)(1) On November 1, 1987, the Copyright Royalty Tribunal (CRT) shall publish in the **Federal Register** a notice of the percent change in the Consumer Price Index (all urban consumers, all items) (CPI) from the Index published for December, 1985 to the Index published for September, 1987, and the underlying calculations.

(2) On the same date as the notice is published pursuant to paragraph (d)(1) of this section, the CRT shall publish in the **Federal Register** revised compulsory license royalty rates which shall adjust the amounts set forth in § 307.3(c) in direct proportion to the percent change in the CPI determined as provided in paragraph (d)(1) of this section, rounded to the nearest 1/20th of a cent; provided however, that:

(i) The adjusted rates shall be no greater than 25% more than the amounts set forth in § 307.3(c); and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (d) shall become effective for every phonorecord made and distributed on or after January 1, 1988, subject to further adjustment pursuant to paragraph (e) of this section.

6. A new § 307.3(e) is added to read as follows:

* * * * *

(e)(1) On November 1, 1989, and each November 1 biennially thereafter until November 1, 1995 (that is, November 1, 1991, 1993 and 1995), the CRT shall publish in the **Federal Register** a notice of the percent change in the CPI from the Index published for the September two years earlier to the Index published for the September of the year in which such notice is published, and the underlying calculations.

(2) On the same date as the notice is published pursuant to this paragraph (e)(1), the CRT shall publish in the **Federal Register** revised compulsory license royalty rates which shall adjust the amounts then in effect pursuant to § 307.3(d) or this paragraph (e), as the case may be, in direct proportion to the percent change in the CPI determined as provided in paragraph (e)(1) of this section, rounded to the nearest 1/20th of a cent; provided, however, that:

(i) The adjusted rates shall be no greater than 25% more than the rates then in effect; and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (e) shall become effective for every phonorecord made and distributed on or after January 1 of the year following that in which such notice is published; that is, on January 1, 1990, 1992, 1994 and 1996, respectively.

Dated: June 9, 1987.

J.C. Argetsinger,

Chairman.

[FR Doc. 87-13599 Filed 6-12-87; 8:45 am]

BILLING CODE 1410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL 3218-6]

Approval and Promulgation of State Implementation Plans; Colorado Prevention of Significant Deterioration Regulation; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: The purpose of this notice is to correct the final rulemaking for the Colorado Prevention of Significant Deterioration (PSD) Regulation published on February 13, 1987 (52 FR 4622) and on September 2, 1986 (51 FR 31125). Language in 40 CFR 52.343 is being revised to clarify that EPA has retained authority to permit under 40 CFR 52.21 all sources that constructed prior to the September 2, 1986 approval of the Colorado PSD program. This correction is needed because the Colorado PSD regulation only allows Colorado to issue permits for sources that apply for a permit after EPA approval of the Colorado PSD program. Neither EPA nor Colorado intended to create any gaps in the PSD program through EPA approval of the Colorado regulation.

DATE: This action will be effective immediately on June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Dale Wells, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202-2405, (303) 293-1773.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons, Incorporation by reference.

Dated: June 5, 1987.

James J. Scherer,

Regional Administrator.

PART 52—[AMENDED]

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart G—Colorado

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.343 is amended by adding paragraph (a)(10) to read as follows:

§ 52.343 Significant deterioration of air quality.

* * * * *

(a) * * *

(10) Sources that received permits from EPA or constructed prior to September 2, 1986.

* * * * *

[FR Doc. 87-13591 Filed 6-12-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 409 and 442

[BERC-258-F]

Medicare and Medicaid Programs; Benefit Period Determinations, Drug Regimen Reviews and Other Technical Changes

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: Under the Hospital Insurance Program (Medicare—Part A), payment for covered inpatient hospital and skilled nursing facility (SNF) services is available for a limited number of days during each benefit period or "spell of illness." Current Medicare regulations reflect the statutory provision under section 1861(a) of the Social Security Act (Act) that a beneficiary's benefit period begins on the day he or she is furnished inpatient hospital or SNF services and ends when he or she has not been "an inpatient of a hospital nor an inpatient of a skilled nursing facility" (as defined under sections 1861(e)(1) and (j)(1) of the Act, respectively) for 60 consecutive days.

These final regulations: (1) Specify that a beneficiary is an "inpatient" of a SNF and is therefore prolonging a spell of illness in a SNF only if the care received by the beneficiary meets skilled level of care conditions and (2) establish certain presumptions which Medicare intermediaries may use in determining whether skilled level of care conditions have been met during a SNF stay.

These regulations also provide that a pharmacist must perform drug regimen reviews in intermediate care facilities (ICFs). In addition § 405.702 of the regulations is amended to remove certain cross-references that are now outdated and unnecessary.

EFFECTIVE DATE: These regulations are effective July 15, 1987.

FOR FURTHER INFORMATION CONTACT:

Thomas Hoyer (Benefit Period Determinations and Drug Regimen Reviews) (301) 594-9446.

Luisa Iglesias (Other Technical Changes) (202) 245-0838.

SUPPLEMENTARY INFORMATION:

I. Benefit Period Determinations

A. Statutory Background

Under the Hospital Insurance Program (Medicare—Part A), payment for covered inpatient hospital and SNF services is available for a limited number of days during each "spell of illness" or benefit period. (Payment is subject to applicable deductible and coinsurance amounts as set forth in section 1813(a) of the Social Security Act (Act).) Once a beneficiary has exhausted that allotted number of days (up to 150 days for inpatient hospital care, if the 60 lifetime reserve days are used, and 100 days for SNF care), no further Part A program payment is available for those services until the beneficiary ends that benefit period and begins a new one (section 1812(a) of the Act).

Under section 1861(a)(1) of the Act, a beneficiary's "spell of illness" begins on the day he or she is furnished inpatient hospital or SNF services and, under section 1861(a)(2) of the Act, ends when he or she has not been an inpatient of a hospital or SNF for 60 consecutive days. The law does not limit the number of benefit periods an individual may have, provided each prior period has ended.

The material following section 1861(j)(15) of the Act specifies that for purposes of determining when a benefit period ends under section 1861(a)(2), a SNF is defined by section 1861(j)(1) of the Act. This latter provision defines a SNF as a facility that—"Is primarily engaged in providing to inpatients:

(A) Skilled nursing care and related services for patients who require medical or nursing care; or

(B) Rehabilitation services for the rehabilitation of injured, disabled, or sick persons."

Also, the material following section 1861(e)(9) of the Act specifies that for purposes of section 1861(a)(2), a hospital is any institution which meets the requirements of section 1861(e)(1) of the Act. Basically, that latter provision defines a hospital as an institution primarily engaged in providing to inpatients diagnostic and therapeutic services, or rehabilitation services.

Therefore, under the law, the application of the terms "SNF" and "hospital" for purposes of ending a

benefit period is not limited to facilities which participate in Medicare or to those that are fully qualified to participate, but have chosen not to participate. Any facility meeting the broad definition of hospital or SNF is considered a hospital or SNF, as appropriate, in relation to a benefit period.

B. Program Experience

In 1967, we developed criteria to be used to assess whether a facility meets the definition of a SNF under section 1861(j)(1) of the Act, and, therefore, would be of a type in which a continued stay would prolong a beneficiary's benefit period. These criteria were published in section 3412 of the Medicare "State Operations Manual" and in the **Federal Register** as a Notice of HCFA Ruling (HCFA 83–2) December 3, 1982 (47 FR 54551). In response to a court decision (*Kron* v. *Heckler*, Civil Action Number 90–1332 (E.D. Louisiana, October 17, 1983)), the criteria for benefit period determinations were amended to exclude facilities licensed or certified solely as ICFs from status as SNFs under section 1861(j)(1) of the Act. The amended criteria for benefit period determinations were published in HCFA Ruling 83–3 (March 22, 1984, 49 FR 10710).

The Medicare program has continually maintained that it is the type of facility in which a beneficiary resides rather than the care he or she receives that determines whether or not a benefit period has ended. This has meant that if a beneficiary was *in* a hospital meeting the section 1861(e)(1) definition or *in* an SNF meeting the section 1861(j)(1) definition, the beneficiary was considered an "inpatient" of those facilities for purposes of benefit period determinations, regardless of the level of care actually received by the beneficiary.

Some Federal district courts have supported this view. See *Stoner* v. *Califano*, 458 F. Supp. 781 (E.D. Mich. 1978) and *Brown* v. *Richardson*, 367 F. Supp. 377 (W.D. Pa. 1973). However, four Federal circuit courts have concluded that the type of care provided to the beneficiary in a SNF should affect the ending of benefit periods.

In general, the latter decisions have concluded that, contrary to current Medicare policy, a beneficiary can be an "inpatient" of a SNF for purposes of benefit period determinations only if the beneficiary is receiving skilled care.

Based on these decisions, a patient residing in a SNF but not receiving skilled care would be subject to different benefit period determinations than before. Before the decisions, the patient's presence in the SNF would have continued his or her benefit period so that, while no new deductible would be required upon admission to a hospital, the patient would increasingly risk being liable upon readmission for the coinsurance associated with the 61st to the 90th day and the 91st to 150th day in a single benefit period. After the 150th day of hospital care, the patient's eligibility for Medicare hospital payments would end and could not be renewed if the patient remained a resident of the SNF after discharge from the hospital. Based on the decisions, a patient residing in a SNF but not receiving skilled care could begin new benefit periods and, as a result be subject to paying a new inpatient deductible as well as having the advantage of a renewed benefit period and reduced exposure to the risk of incurring coinsurance costs.

C. Proposed Rule

In view of these court decisions, we implemented revised procedures for making benefit determinations in the States and Federal jurisdictions under the courts' jurisdictions. We also began to prepare the proposed rule which we published in the **Federal Register** on May 16, 1986 (51 FR 17997) with respect to benefit period determinations, which would provide for nationwide implementation of these principles. We also included an unrelated change concerning drug regimen reviews and other technical changes. (See sections II. and III. for proposals regarding drug regimen reviews and other technical changes.)

1. Skilled Level of Care Requirement

(The proposed regulations would not affect the current definitions of "hospital" as used in section 1861(e)(1) and "SNF" as used in section 1861(j)(1). HCFA Rulings 83–2 and 83–3 would remain in effect.)

We proposed to amend § 409.60 of the regulations to specify that for purposes of ending a benefit period, a beneficiary is an "inpatient" of a SNF only if the beneficiary is receiving skilled nursing care, that is, if the beneficiary's care in the SNF meets the skilled level of care requirements contained in § 409.31(b)(1) and (3) of current regulations. Section 409.31(b)(1) provides that the beneficiary must require skilled services on a daily basis and § 409.31(b)(3) provides that the daily skilled services must be ones that, as a practical matter, can only be provided in a SNF on an inpatient basis. This means that a beneficiary is an "inpatient" of a SNF only if the beneficiary receives skilled nursing or rehabilitation services (already defined in regulations at § 409.31(a), and further delineated in §§ 409.32 and 409.33) that he or she requires on a daily basis (§ 409.34) and that, as a practical matter, can only be provided on an inpatient basis (§ 409.35).

2. Presumptions in Applying the Level of Care Requirements

a. General

We proposed to use seven presumptions to aid in administering the proposal that a beneficiary can be considered an "inpatient" of a SNF only if he or she is receiving a skilled level of care. Those seven presumptions were intended to cover every situation concerning a beneficiary's prior stay in a SNF, so that in all cases, the presumptions can serve to characterize (at least initially) the level of care status of a prior SNF stay.

Four of the presumptions are based on prior claims determinations that, if correct, are a good characterization of whether skilled care was provided. Three of the presumptions are based on prior claims determinations that may be subject to differing interpretations.

We decided to use these presumptions for several reasons. A major reason was administrative efficiency. All these presumptions make use of previous Medicare and Medicaid claims determinations relating to the issue. Use of presumptions prevents duplication of effort in many cases. Also, we do not believe that a beneficiary should benefit from two different characterizations of the same SNF stay for payment purposes. For example, if a Medicare or Medicaid payment was made for a prior SNF stay and was not challenged by the patient, we believe that determination should also be used as the basis for characterizing the stay for benefit period purposes.

It should be noted that the use of these presumptions does not result in determinations about whether inpatient hospital or SNF care is covered for purposes of Medicare payment. The presumptions are used exclusively to assist Medicare intermediaries in determining whether a patient who has been in an SNF begins a new benefit period upon admission to a hospital or remains in the same benefit period. Determinations about payment for the care in the SNF are made separately by the intermediary (when a claim is submitted) or by a State's Medicaid program.

b. Presumptions entirely based upon the accuracy of prior claims determinations

These four presumptions set forth in the proposed rule are based on prior claims payment determinations that, if correct, are a good characterization of whether skilled care was or was not provided. As stated in the proposal, the benefit period determinations resulting from these presumptions can only be changed if the beneficiary successfully appeals the prior claims determination upon which the presumption is based or if the payer properly reverses its earlier determination. The four presumptions are that—

(1) A beneficiary's care in an SNF met the skilled level of care requirements if Medicare or Medicaid made SNF benefit payments for that care (but not under Medicare limitation of liability rules at § 405.330(a), under Medicare grace day rules at § 405.330(b), or under any State Medicaid rules providing for SNF payment for administratively necessary days (ANDs) not meeting the skilled level of care requirements);

(2) A beneficiary's care in an SNF will be considered to be an skilled level of care if an SNF claim was paid under section 1879(e) of the Act;

(3) A beneficiary's care in an SNF did not meet the skilled level of care requirements if Medicare payment was made for the SNF care under the limitation of liability rules at § 405.330(a) or the grace day rules at § 405.330(b); and

(4) A beneficiary's care in an SNF did not meet the skilled level of care requirements if a Medicaid SNF claim was denied on the grounds that the care was not at the SNF level of care (even if paid under any State Medicaid rules which provide for payment for ANDs not meeting the skilled level of care requirements).

Each of these presumptions is triggered by virtue of there having been a prior Medicare or Medicaid payment decision which required a level-of-care finding.

c. Other presumptions

We proposed to use three presumptions that can be challenged by the beneficiary because the prior claims determination may be subject to another interpretation with respect to the current benefit period determination. We proposed to presume that—

(5) A beneficiary's care in a SNF meets the skilled level of care requirements if a Medicare or Medicaid claim for the SNF care was denied on other than level of care grounds (for example, denied because the three day prior hospital stay requirement was not met);

(6) A beneficiary's care in a SNF did not meet the skilled level of care requirements if a Medicare SNF claim was denied on level of care grounds and payment was not made under limitation of liability or grace day rules at § 405.330; and

(7) A beneficiary's care in a SNF (including a nonparticipating SNF) did not meet the skilled level of care requirements if no Medicare or Medicaid SNF claim was submitted for the SNF stay.

Beneficiaries would be notified that they could present documentation (for example, medical records and statements of physicians and nurses regarding the services needed and received) to challenge the presumption.

As set forth in the proposed rule, when these presumptions are applicable, Medicare beneficiaries would (in the context of the initial Medicare determination of the current claim) be advised of their opportunity to rebut the presumptions regarding any prior SNF stays. These appeals opportunities would exist in the context of appealing determinations, made under Title 42, Part 405, Subpart G, for the current claim (that is, the claim for which looking back at the status of the prior SNF stay can affect the beneficiary's benefit period status). In connection with the appeals opportunities set forth, we also proposed to amend § 405.704(b)(10) to make clear that initial determinations also include determinations made under the presumptions established under proposed § 409.60(c)(2).

d. Prior stay determinations—one finding only

Our proposal provided that the Medicare program would recognize only one level of care status finding (made under the Mediare or Medicaid programs) for any given day of care in a SNF; that is, that a day should not, for example, be considered as covered for one purpose and paid for under Medicare and then later considered as non-covered for purposes of establishing a new benefit period. This would apply only to days of care to which a prior claims determination specifically applies, not to days before or after the period for which the determination was made.

e. Effective date

We proposed that the regulations changes set forth in section I.C. above would be applied only to those claims for which determinations have not yet become final; that is, no longer subject to appeal (under Part 405, Subpart G), on or after the effective date of the final rule.

II. Drug Regimen Reviews

A. Background

The Medicare SNF regulations (§ 405.1127(a)), and the Medicaid SNF regulations (§ 442.202(c)) by reference to Part 405, Subpart K, require that a pharmacist perform a monthly drug regimen review on each patient in the SNF. However, under Medicaid regulations located at 42 CFR 442.336(a), in ICFs, these monthly reviews must be performed by a registered nurse. This presents a problem for some facilities dually certified as both a SNF and an ICF. A dually certified facility might find it administratively more efficient to designate either a pharmacist or a registered nurse to conduct reviews for all its patients regardleess of the level of care.

B. Proposal

In recognition of this situation and in order to provide flexibility for SNFs and ICFs, we proposed in our May 16 rule to modify §§ 405.1127(a) and 442.336(a) of the regulations to permit either a pharmacist or a registered nurse to conduct these reviews at the option of the facility

III. Technical Changes

We also proposed to make technical changes to 42 CFR 405.702 (as a result of other amendments to regulations) to remove two cross-references in that section

On September 1, 1983, we published in the **Federal Register** a final rule with comment period that revised § 405.401(c) of the regulations (48 FR 39809). The old paragraph (c) dealt with intermediaries in general, but the current paragraph (c) as amended by the rule (and on September 30, 1986 (41 FR 34790) recodified as § 413.1 (c)) now deals with outpatient maintenance dialysis and related services. Therefore, in the first sentence of § 405.702, we proposed to remove, as outdated and unnecessary, the parenthetical reference "(see § 405.401(c))". Also, as a result of regulations published on April 4, 1980 (45 FR 22935), certain sections of regulations formerly appearing in Title 42 under Part 405 were redesignated as Part 489. For the same reasons as above, we proposed to amend the second sentence of § 405.702 to remove the parenthetical "(see § 405.605)".

IV. Comments

A. Benefit Period Determinations

We received a variety of comments on the proposed rule, primarily from groups which represent beneficiaries and providers, and comments from an organization that represents intermediaries. Two of the nursing home organizations and a group representing beneficiaries supported the use of presumptions but made comments about them and noted that we would need to reexamine them in the light of experience to assure that they are operating as anticipated. The comments and responses to those comments are as follows:

1. Presumption 1

Comment: We have learned that, as a practical matter, there are some cases in which the same SNF stay may be subjected to conflicting Medicare and Medicaid claims determinations. For example, a SNF stay may be denied by a Medicare intermediary as not meeting the skilled levels of care requirements and subsequently billed to the Medicaid agency and paid as covered skilled nursing care.

Response: In such cases we believe that the difference in the determinations must be resolved on the side of the Medicare intermediary. Accordingly, we have amended the language of presumption 1 (contained at § 409.60(c)(1)(i)) to indicate that, in such cases, presumption 6 (contained at § 409.60(c)(2)(ii)), relating to SNF claims denied by Medicare as not meeting the skilled care criteria, should be applied

2. Presumption 2

Comment: One commenter asserted that the presumption contained in 42 CFR 409.60(c)(1)(ii) is inappropriate because it violates the intent of *Kron v. Heckler*. The presumption is that a patient required and received skilled care when his or her claim was paid pursuant to section 1879(e).

Response: We believe that the commenter misunderstood the presumption. Section 1879(e) of the Act provides that payment may be made in cases where a patient who required covered care was erroneously transferred from a bed in a participating facility (that is, a facility certified as a SNF) to a noncertified bed in the same facility (that is, a bed in a "distinct part" not certified as a SNF) as a result of an error made by an intermediary, utilization review committee, or peer review organization. The effect of our presumption is to recognize that such payments, which are only made when it is demonstrated upon appeal that skilled care was needed and given, create a presumption that the patient received skilled care. In our explanatory preamble material, we noted that this presumption works only in facilities which are SNFs with noncertified beds, not facilities which are distinct-part ICFs. We pointed out that *Kron v. Heckler* had led us to establish a test for benefit period purposes that excludes such facilities from being considered SNFs and, by implication, its inpatients from being inpatients of a SNF. The commenter apparently believes that the new distinction we are making in this regulation pursuant to *Mayburg v. Heckler* and other cases should extend to all settings so that a patient's level of care would determine his or her spell of illness status regardless of the institutional setting. This is not the case. All of these presumptions relate to the class of patients who are actually in SNFs. They are not to be applied to patients who are not in SNFs because they clearly are ending a spell of illness by virtue of their indisputable physical location.

3. Presumption 3

Comment: One commenter challenged the presumption in 42 CFR 409.60(c)(1)(iii). This presumption is that care will be presumed not to be skilled if a SNF claim has been paid under section 1879 of the law, the waiver of liability provision (§ 405.330). The commenter's contention is that Medicare claims determinations are so often incorrect that they cannot be relied upon to serve as the basis of presumptions.

Response: We do not agree with the commenter. Although reference was made in the comment to various articles challenging the consistency of claims determinations by intermediary staff relating to skilled nursing facility care, HCFA has never accepted these conclusions. Moreover, to accept this view is inconsistent with the basic operation of the statute, which assumes that final determinations relating to coverage will be made and will be assumed to be correct unless there is an appeal and a reversal of the determination. While it is true that claims determinations do require the application of medical judgment to individual cases and that medical opinions may vary, it is also true, as the commenter implies, that one result is the payment of some claims which another medical reviewer may have denied. We believe that the existing appeals process is the appropriate mechanism for challenging a claims determination and that, once a determination becomes final, it is appropriate to rely upon its accuracy to provide the basis for a presumption.

4. Presumption 5

Comment: Two commenters challenged the presumption at 42 CFR 409.60(c)(2)(i). This was the presumption that a patient received skilled care if a denial were made on technical (e.g., the patient did not have a necessary 3-day hospital qualifying stay) rather than medical grounds. The commenter challenged this presumption on the following bases. First, intermediaries tend to review claims first for compliance with technical requirements and, if a denial is made for a technial reason, do not examine the claim further to make medical judgments. Second, that patients may frequently enter SNFs for skilled care or unskilled care when there is no Medicare or Medicaid coverage and this presumption would cause them to extend their spells of illness. Finally, intermediaries might manipulate denial patterns so that technical, rather than medical, denials were made as a means of reducing Medicare expenditures.

Response: We disagree with the commenters. On the first issue, we would note that this is a presumption open to challenge and the patient is so advised when he or she receives the claims determination. Thus, to the extent that the presumption is inaccurate, patients may challenge and rebut it, thus suffering no harm. In addition, we would note that we designed this presumption so that it would work to the advantage of most beneficiaries. That is, few patients use large numbers of hospital days and the vast majority of patients benefit by remaining in the same benefit period because they do not become liable for payment of a new deductible. Thus, this presumption often benefits a patient. Finally, we would not expect our intermediaries to make determinations in the manner suggested and would certainly not order them to do so. For these reasons, we believe the presumption should remain as proposed.

5. Presumption 7

Comment: One commenter suggested that the presumption at 42 CFR 409.60(c)(2)(iii) be omitted. This presumption is that skilled care was not rendered if no Medicare or Medicaid claim was submitted for the care. The commenter argued that this presumption could disadvantage private pay patients or patients of nursing homes that do not participate in the Medicare program. The commenter also suggested that it is difficult to obtain "no payment" bills

from nursing homes (such bills generate denials that trigger other presumptions). Fnally, the commenter noted that nursing homes which do not bill because they believe skilled care was not rendered may be mistaken so that the failure to bill cannot be considered a reliable indicator that unskilled care was rendered.

Response: We acknowledge that the factors cited by the commenter could lead to the need to challenge this presumption and it is for that reason that we have made it open to dispute by the beneficiary. We would note that the fact that a patient has remained in a nursing home for some time without either being discharged or being reinstitutionalized indicates a stable condition is probable and custodial (rather than skilled) care is likely to be received. If this is not the case, the patient may challenge the presumption so that payment may be made. Thus, we do not believe that this presumption should be eliminated or reversed.

6. Christian Science Sanitoria

Comment: One commenter noted that the proposed rule did not mention Christian Science sanitoria, which may provide covered hospital or SNF care under current law. It was suggested that this set of presumptions be made applicable to patients in these sanatoriums.

Response: We agree. We will amend the language of the regulation to make reference to skilled nursing care furnished by a SNF described in section 1861(y) of the Act.

7. Presumption—Challenges

Comment: One commenter maintained that these presumptions will almost never be challenged by beneficiaries, citing the fact that very few Medicare determinations are currently appealed.

Response: We do not agree. There is no need for a patient to appeal a determination if there is no prospect of liability for the cost of care; however, in the instances involved here, the only patients who may be disadvantaged are the patients who may face the prospect of paying coinsurance for hospital care or paying a new inpatient hospital deductible or exhausting hospital or SNF benefits under a benefit period. These patients will learn of their impending liability in a timely manner. As a result, we believe that patients will have the necessary incentive to initiate appeals in cases where they believe that the claims determinations have not been correct.

Comment: One commenter recommended that all the presumptions be subject to challenge directly and objected to the fact that the presumptions in 42 CFR 409.60(c)(1) may only be altered when the claims determination upon which they are based is appealed and reversed. Another commenter recommended that we direct intermediaries to reopen and reexamine automatically those prior determinations upon which these presumptions are based.

Response: We do not agree. As we have noted elsewhere in this preamble, we believe that the statutory appeals mechanism for Medicare claims is adequate and that it is appropriate to rely upon final claims determinations in making presumptions about current claims. Whenever a claims determination is made, a beneficiary is notified and informed of the option to appeal. We do not believe that it is appropriate to set up what amounts to a second appeals process to be invoked in cases where a patient subsequently decides that there may be a financial advantage in appealing a prior claim.

8. General

Comment: One commenter noted that it is unfair to base a presumption about the care rendered during the 60 days prior to a hospital admission on a claims determination that may have occurred during a prior period.

Response: We intend to base the presumptions only on claims determinations that apply to the 60-day period immediately preceeding a hospital admission. We will only permit presumptions to be based on determinations that relate to the days of inpatient care in question. Where there is no claims determination, the presumption in 42 CFR 409.60(c)(2)(iii) would be applied.

9. Retroactivity

Comment: One commenter recommended that the regulations be made retroactive to the date when these procedures were implemented in some parts of the country as a result of litigation; that is, January 1, 1985.

Response: We believe that prospective implementation of these rules is an appropriate resolution of the issue. A retroactive effective date would pose extraordinary administrative problems for the program. In addition, such an action would disadvantage all those beneficiaries who would have begun new benefit periods under the new procedures and would therefore be liable for paying Medicare deductible amounts for which they were not liable under existing procedures.

10. Presumptions—Linkage With Medicaid

Comment: One commenter suggested that the linkage with Medicaid claims determinations is inappropriate both because of the administrative burden of establishing the necessary relationships and because Medicaid coverage requirements for SNF care are different from Medicare requirements.

Response: We do not agree. Linkage between the Medicare and Medicaid programs has always been advantageous to both programs and we believe it should be encouraged. We would also note that Medicare and Medicaid SNF coverage requirements are intended to be the same. The clear meaning of the Senate Finance Committee Report that accompanied the Social Security Amendments of 1972 was that both programs should have the same SNF level of care standards. To the extent that there are variations between the programs, we hope that these regulations will help remove them.

Comment: We have learned that in at least one State (New York), the Medicaid program is required by law to continue payment to SNFs in cases where the patient no longer requires a SNF level of care. Payment is continued at a lower rate. We have been asked to explain how these Medicaid payments would relate to the presumptions we have established that rely on Medicaid payment determinations.

Response: The payment presumptions relate exclusively to payment to SNFs for SNF care. In a case where a SNF was being paid for a lower level of care there would be no presumption that skilled care was rendered. In such cases, we would expect the intermediary to base its determinations on the actual level of care needed and received and not on the fact that a payment was made.

11. Presumptions—Implementation

Comment: One commenter asserted that it would be difficult for Medicare intermediaries to implement the presumptions and raised a number of issues relating to implementing them. It was suggested that Medicare intermediaries be provided with additional guidance.

Response: Intermediaries serving 14 States and 2 territories have been applying these presumptions since January 1, 1985. They have done so based on instructions contained in sections 3035, 3619.5, 3620, 3670, 3719.1, and 3722 of the Medicare Intermediary Manual (HCFA Pub. 13–3, Transmittal 1171, December 1984). To date we have

received no complaints or requests for further instructions regarding the use of these presumptions; however, if we do receive requests for clarification, we will further revise these instructions.

We agree with the commenter that intermediaries who are unable easily to obtain the claims information necessary to apply these presumptions should have the option to substitute a review of the patient's care during the 60 days prior to a hospital admission. For example, the intermediary may find it difficult to obtain claims information from a State Medicaid agency or from the intermediary which processed a SNF claim for the period in question. We are therefore revising the language of the regulation to provide this option for the intermediaries. We would note that we have developed these presumptions to help intermediaries make claims determinations on these issues efficiently. We did not intend them to prevent the use of more efficient methods in cases where these are available.

B. Drug Regimen Reviews in SNFs and ICFs

We received nearly 100 comments on our proposal, all opposed to it. The proposal provided that either a registered nurse or a pharmacist may perform drug regimen reviews in SNFs or ICFs. The major reasons for opposition were assertions that nurses are not equipped by their training and experience to perform drug regimen reviews and that they do not have sufficient time to perform them in the course of their duties. Most of the associations commenting also recommended that regulations be revised to require the use of a pharmacist to perform drug regimen reviews in ICFs.

We have reexamined the issue in the light of the comments and have decided to leave in place the current SNF requirement that a pharmacist perform these reviews. We are also deleting both the current and the proposed ICF requirements and substituting, as recommended by the commenters, a requirement that drug regimen reviews be performed by pharmacists. We are making these changes because the commenters have persuaded us that the proper conduct of these reviews can best be assured by requiring that a pharmacist perform them.

V. Summary of Changes

Based on the comments received, we are making the following changes to the proposed rule.

A. Benefit Period Determination

1. We have amended the language of presumption 1 contained at § 409.60(c)(1)(i) to provide for those cases in which the same SNF stay may be subjected to conflicting Medicare and Medicaid claims determinations.

2. We have added a subparagraph (c)(3) with respect to presumptions to provide that if information upon which to base a presumption is not readily available to the intermediary, the intermediary may review the beneficiary's medical records to determine whether he or she was an inpatient of a SNF as set forth under paragraph (b)(2) of this section.

3. We have amended regulations to make reference to skilled nursing care furnished by a SNF described in section 1861(y) of the Act (Christian Science Sanitoria).

B. Drug Regimen Reviews

We have deleted our proposed change to § 405.1127 regarding allowing a registered nurse to perform drug regimen reviews in SNFs. We have also altered the ICF proposal at § 442.336 to require that a pharmacist must review medications.

C. Minor Technical Corrections

We have made minor technical corrections to correct typographical errors in the proposed rule.

VI. Regulatory Impact Statement

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule includes any proposed regulation that would have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) we also prepare and publish an initial regulatory flexibility analysis for any proposed regulation that would have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all providers to be small entities.

The changes on drug regimen reviews and the other technical changes will not have a significant effect on Medicare or Medicaid program expenditures or on State or provider operations. We base this view primarily on anecdotal evidence gained from State surveyors that many ICFs currently use pharmacists to perform these reviews in recognition of the need for that level of skill. If this is true, our change should not have a large impact. However, our proposals on benefit period determinations will have some significant effects. Although we do not believe that those effects will be of such a magnitude as to require either a regulatory impact analysis or a regulatory flexibility analysis, we have provided the following discussion of the expected impact of this regulation in order to clarify our reasons for not preparing analyses under either E.O. 12291 or the RFA.

B. Benefit Period Determinations

As noted above in this preamble, for benefit period determinations a beneficiary's care in a SNF must meet certain skilled level of care requirements in order for the beneficiary to be considered an "inpatient" of the SNF. We anticipate that implementation of this regulation on a nation-wide basis could generate certain costs and savings to the Medicare and Medicaid programs, improvements in the administration of State long-term care programs, and advantages and disadvantages to some beneficiaries.

1. Budget Impact

We estimate a final net annual budget increase of $10 million in combined program expenditures. This impact reflects increased Medicare net costs offset by Medicaid savings, as follows:

[In million of dollars]

Medicare cost	Medicare savings	Net Medicare cost	Medicaid savings	Final net cost
$50	−$35	$15	−$5	$10

The Medicare costs represent an expected increase in benefit payments resulting from new benefit periods while the Medicare savings reflect expenditures made unnecessary by payment of new hospital deductibles generated by those beneficiaries beginning new benefit periods under these regulations. Medicaid savings will result from Medicare payment for services currently paid for by Medicaid for certain dually eligible beneficiaries. Thus, the net budget impact represents an increase in Medicare program expenditures to implement this change in our benefit period policies to

accommodate the dictates of several Federal court decisions.

2. Beneficiary Impact

In practice, this regulation will affect different beneficiaries differently, depending on the specific circumstances of each beneficiary's situation. The regulation will make it easier for a beneficiary to end a benefit period and thereby begin a new one. For a beneficiary who has used enough inpatient hospital or SNF care to now be using coinsurance days, lifetime reserve days or be in "days exhausted" status, it will be beneficial to end one period and begin a new one. As a result of this regulation, these beneficiaries could start a new benefit period if they reside in a SNF. This would generate more payment liability for the Medicare program and reduce the beneficiary's liability because the beneficiary would not continue to pay coinsurance or, in benefits exhausted cases, the full charges amount.

On the other hand, the regulation will not be advantageous for a beneficiary who has not made extensive use of the inpatient hospital benefit. Such a beneficiary usually will have paid his or her required deductible when beginning the benefit period. As long as the beneficiary is in Medicare full payment days (that is, before coinsurance days are triggered by utilization) it is to his or her advantage to have the current benefit period prolonged until the full-pay days are exhausted. Thus, the beneficiary would avoid paying another deductible for the full-pay Medicare days (that is, for covered care) to which the person is already entitled in becoming a hospital inpatient again. Beneficiaries in this latter category who "reside" in a SNF (that is, do not receive skilled care) will be required to pay new deductibles if they become hospitalized. Under existing rules (in those areas of the country not under a Mayburg-type court order discussed elsewhere in this document), those SNF stays would prolong a benefit period, and no deductible would be owed at the beginning of a new hospitalization.

3. Other Program Effects

We anticipate at least one other, less significant, outcome from the change to our current benefit period policy. By providing States with incentives to draw SNF and ICF level of care distinctions under their Medicaid programs more efficiently, we believe that level of care determinations for recipients will be made appropriately in a greater number of cases and that as a result, State payments to long term care facilities will more accurately reflect the range of health care resources consumed by the patients.

Under this rule, Medicare will presume (in the case of beneficiaries entitled both to Medicare and Medicaid) that skilled care was needed and received if a State makes a Medicaid SNF payment for the care. As a result of that presumption, if Medicaid SNF payments are made for a beneficiary in a SNF but who is not at the skilled level of care, the beneficiary is unable to end his Medicare benefit period. Thus, beneficiaries who are either in copay or exhausted status under the Medicare SNF or hospital inpatient benefit would receive either reduced or no Medicare payment for any inpatient SNF or hospital services needed subsequent to the non-skilled stay for which the State made Medicaid SNF payment, and Medicaid liability would continue.

The result is that for those beneficiaries who are also Medicaid-eligible, the State will become the liable payer for the cost of the services not paid for by Medicare. We believe that this regulation will create a fiscal incentive to States to assure that the distinction between SNF and ICF care is properly made. This improvement, over time should lead to more accurate SNF and ICF payment rates and more appropriate use of nursing home beds.

4. Effect of Medicare Catastrophic Insurance Enactment

The Secretary is currently proposing legislation that would alter the Medicare program to provide catastrophic insurance for Medicare patients. One aspect of that proposal would restructure the basic Medicare Part A coverage scheme to eliminate the benefit period or "spell of illness" concept and replace it with other measures of eligibility for inpatient hospital and SNF care. In the event the proposal is enacted, the cost and savings associated with this final regulation would not be realized.

C. Summary

In summary, we have determined, and the Secretary certifies, that this final regulation will not result in a significant economic impact on a substantial number of small entities. In addition, the estimated impact would not meet the $100 million threshold or the other criteria for identifying major rules under Executive Order 12291. Because this final regulation will not result in an annual economic impact that meets the threshold criteria of Executive Order 12291 or of the RFA, we have not prepared either a regulatory impact analysis or a regulatory flexibility analysis.

Finally, section 9321(d) of Pub. L. 99-509 specifies that we may not issue any final rule or notice, between October 21, 1986 and September 1, 1987, that would result in a $50 million or greater reduction in payments to hospitals or physicians for FY 1988. This final regulation would not result in a $50 million or greater reduction in payments to hospitals or physicians for FY 1988. Therefore, we may issue the regulations in compliance with section 9321(d) of Pub. L. 99-509.

D. Paperwork Reduction Act 1980

This final rule regarding benefit period determinations and drug regimen reviews does not impose any additional information collection requirements. Consequently, they need not be reviewed by the Executive Office of Management and Budget (EOMB) under the Authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 409

Health facilities, Medicare.

42 CFR Part 442

Grant programs—health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. 42 CFR Part 405 is amended as set forth below:

Subpart G—[Amended]

1. The authority citation for Part 405, Subpart G is revised to read as follows:

Authority: Secs. 1102, 1154, 1155, 1869(b), 1871, 1872 and 1879 of the Social Security Act (42 U.S.C. 1302, 1320c, 1395ff(b), 1395hh, 1395ii and 1395pp).

§ 405.702 [Amended]

2. In § 405.702, in the first and second sentences, the parenthetical references "(see § 405.401(c))" and "(see § 405.605)", respectively, are removed as outdated and unnecessary.

3. In § 405.704, the introductory language to paragraph (b) is reprinted and (b)(10) is revised to read as follows:

§ 405.704 Actions which are initial determinations

* * * * *

(b) Requests for payment by or on behalf of individuals. An initial determination with respect to an individual includes any determination made on the basis of a request for payment by or on behalf of the individual under Part A of Medicare, including a determination with respect to: * * *

(10) The beginning and ending of a spell of illness, including a determination made under the presumptions established under § 409.60(c)(2) of this chapter, as specified in § 409.60(c)(4) of this chapter

* * * * *

Subpart K—[Amended]

4. The authority citation for Part 405, Subpart K is revised to read as follows:

Authority: Secs. 1102, 1814, 1832, 1833, 1861, 1863, 1865, 1866, 1871, of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395k, 1395l, 1395x, 1395z, 1395bb, 1395cc, 1395hh.

PART 409—MEDICARE BENEFITS, LIMITATIONS, AND EXCLUSIONS

B. 42 CFR Part 409 is amended as set forth below:

1. The authority citation for Part 409 is revised to read as follows:

Authority: Secs. 1102, 1812, 1813, 1814, 1861, 1866, 1871, 1881, and 1883 of the Social Security Act (42 U.S.C. 1302, 1395d, 1395e, 1395f, 1395x, 1395cc, 1395hh, 1395rr, and 1395tt).

2. Section 409.60 is revised to read as follows:

§ 409.60 Benefit periods.

(a) *When benefit periods begin.* The initial benefit period begins on the day the beneficiary receives inpatient hospital or SNF services for the first time after becoming entitled to hospital insurance. Thereafter, a new benefit period begins whenever the beneficiary receives inpatient hospital or SNF services after he or she has ended a benefit period as described in paragraph (b) of this section.

(b) *When benefit periods end.* (1) A benefit period ends when a beneficiary has, for at least 60 consecutive calendar days, not been an inpatient in any hospital that meets the requirements of section 1861(e)(1) of the Act or in any SNF that meets the requirements of section 1861(j)(1) or 1861(y) of the Act.

(2) For purposes of ending a benefit period, a beneficiary was an inpatient of a SNF if his or her care in the SNF met the skilled level of care requirements specified in § 409.31(b) (1) and (3).

(c) Presumptions. (1) For purposes of determining whether a beneficiary was an inpatient of a SNF under paragraph (b)(2) of this section—

(f) A beneficiary's care met the skilled level of care requirements if inpatient SNF claims were paid for those services under Medicare or Medicaid, unless:

(A) Such payments were made under § 405.330 or Medicaid administratively necessary days provisions which result in payment for care not meeting the skilled level of care requirements, or

(B) A Medicare denial and a Medicaid payment are made for the same period, in which case the presumption in paragraph (c)(2)(ii) of this section applies;

(ii) A beneficiary's care met the skilled level of care requirements if a SNF claim was paid under section 1879(e) of the Social Security Act;

(iii)A beneficiary's care did not meet the skilled level of care requirements if a SNF claim was paid for the services under § 405.330;

(iv) A beneficiary's care did not meet the skilled level of care requirements if a Medicaid SNF claim was denied on the grounds that the services were not at the skilled level of care (even if paid under applicable Medicaid administratively necessary days provisions which result in payment for care not meeting the skilled level of care requirements);

(2) For purposes of determining whether a beneficiary was an inpatient of a SNF under paragraph (b)(2) of this section a beneficiary's care in a SNF is presumed—

(i) To have met the skilled level of care requirements if a Medicaid or Medicare claim was denied on grounds other than that the services were not at the skilled level of care;

(ii) Not to have met the skilled level of care requirements if a Medicare SNF claim was denied on the grounds that the services were not at the skilled level of care and payment was not made under § 405.330; or

(iii) Not to have met the skilled level of care requirements if no Medicare or Medicaid claim was submitted by the SNF.

(3) If information upon which to base a presumption is not readily available, the intermediary may, at its discretion review the beneficiary's medical records to determine whether he or she was an inpatient of a SNF as set forth under paragraph (b)(2) of this section.

(4) When the intermediary makes a benefit period determination based upon paragraph (c)(1) of this section, the beneficiary may seek to reverse the benefit period determination by timely appealing the prior Medicare SNF claim determination under 42 CFR Part 405, Subpart G, or the prior Medicaid SNF claim under 42 CFR Part 431, Subpart E.

(5) When the intermediary makes a benefit period determination under paragraph (c)(2) of this section, the beneficiary will be notified of the basis for the determination, and of his or her right to present evidence to rebut the determination that the skilled level of care requirements specified in § 409.31 (b)(1) and (b)(3) were or were not met on reconsideration and appeal under 42 CFR, Part 405, Subpart G.

(d) *Limitation on benefit period determinations.* When the intermediary considers the same prior SNF stay of a particular beneficiary in making benefit period determinations for more than one inpatient Medicare claim—

(1) Medicare will recognize only the initial level of care characterization for that prior SNF stay (or if appealed under 42 CFR Part 405, Subpart G, the level of care determined under appeal); or

(2) If part of a prior SNF stay has one level of care characterization and another part has another level of care characterization, Medicare will recognize only the initial level of care characterization for a particular part of a prior SNF stay (or if appealed under 42 CFR Part 405, Subpart G, the level of care determined under appeal).

(e) *Relation of benefit period to benefit limitations.* The limitations specified in §§ 409.61 and 409.64, and the deductible and coinsurance requirements set forth in Subpart G of this part apply for each benefit period. The limitations of § 409.63 apply only to the initial benefit period.

PART 442—STANDARDS FOR PAYMENTS FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

C. 42 CFR Part 442 is amended as set forth below:

1. The authority citation for Part 442 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. Section 442.336(a) is amended by adding a reference to a pharmacist and deleting reference to a registered nurse. As revised, paragraph (a) reads as follows:

§ 442.336 Review of medications.

(a) A pharmacist must review medications monthly for each resident and notify the physician if changes are appropriate.

* * * * *

Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance Program; No. 13.714, Medical Assistance Program)

Dated: March 11, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: May 11, 1987.

Don M. Newman,

Acting Secretary.

[FR Doc. 87-13449 Filed 6-12-87; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

[AA-620-4111-02-24-10]

Clarification of Provision of Bureau of Land Management; "State, Nationwide, or National Petroleum Reserve in Alaska Oil and Gas Bond", Form 3104-8

AGENCY: Bureau of Land Management, Interior.

ACTION: Clarification of the meaning of certain provisions of the Bureau of Land Management's State and Nationwide Oil and Gas Bond Form 3104-8.

SUMMARY: In the terms and conditions of the Bureau of Land Management's (BLM) State and Nationwide Bond Form 3104-8, there is a provision that is being misinterpreted by some surety companies to mean that, with a 30-day Notice to BLM, they can cease bond coverage on leases extended beyond their primary term. This notice clarifies that this is not permissible.

EFFECTIVE DATE: June 15, 1987.

ADDRESS: Inquiries or suggestions should be sent to: Director (620), Bureau of Land Management, 18th & C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gloria J. Austin, Bureau of Land Management, (202) 653-2190.

SUPPLEMENTARY INFORMATION: On the reverse side of the subject bond form 3104-8 is a proviso that reads: "Provided, that the surety may elect to have the additional coverage authorized under this paragraph become inapplicable as to all interests of the principal acquired more than thirty (30) days after the receipt of notice of such election by the Bureau of Land Management."

In the paragraph referred to by this wording there are references to "Any oil and gas lease hereafter issued to or acquired by the principal * * *;" "Any operating agreement hereafter entered into or acquired by the principal * * *;" and "Any designation subsequent hereto of the principal as operator * * *." It is these additional coverages acquired after the bond agreement has been entered into that are the subject of the provision allowing the surety after 30 days notice to BLM to elect to become inapplicable. In each case through the words "hereafter" and "subsequent hereto" it is made clear that such acquisitions postdate the bond agreement and therefore, as a matter of equity to the surety, are electable as inapplicable.

Also included in the same paragraph, however, is reference to extensions of leases already covered by the bond agreement which by their nature are not additional acquisitions but rather a continuation of existing obligations. Extensions, as set out by the statute at 30 U.S.C. 187, 209, and 226, are interests contemplated in the lease itself, and are contingent interests which vest if the lessee fulfills contingency requirements in the lease. Extensions, therefore, are not among the additional coverages noted in the paragraph as being acquired after or subsequent to the bond agreement and, as such, are not subject to the "inapplicability" provision.

Nonetheless, because of the construction of the paragraph that ties the paragraph to preceding sections covering authorizations and obligations, some surety companies have mistakenly lumped extensions with additional acquisitions subject to the provision allowing them to elect inapplicability of the additional acquisitions. It is not now, and never has been in the 20 years this provision has been in effect, a proper reading of the bond form to so construe lease extensions or the provisions on inapplicability.

Dated: June 3, 1987.

David O'Neal,

Deputy Director, Bureau of Land Management.

[FR Doc. 87-13557 Filed 6-12-87; 8:45 am]

BILLING CODE 4310-84-M

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

45 CFR Part 2001

Project Recognition and Use of Logo; Defense Communities

AGENCY: Commission on the Bicentennial of the United States Constitution.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends 45 CFR Part 2001 by adding § 2001.38 *Bicentennial Defense Communities* to Subpart C—*Involvement with Bicentennial Projects.* The effect of this action is to permit the Commission to officially recognize defense installations (Army, Navy, Air Force, Marines and Coast Guard) for their community efforts here and overseas to honor and commemorate the United States Constitution.

DATES: This interim rule is effective January 24, 1987; public comments thereon must be received before July 31, 1987.

ADDRESS: Comments may be mailed or delivered to the Office of General Counsel, Commission on the Bicentennial of the United States Constitution, 736 Jackson Place NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joseph B. McGrath, General Counsel, Tel. (202) 275-9178.

SUPPLEMENTARY INFORMATION:

Background

Subpart C of 45 CFR Part 2001, the regulations governing the Commission's involvement in bicentennial projects sponsored by other organizations, was published as part of a final rule on October 15, 1986 (51 FR 36786-36794).

This additional amendment to the Commission's regulations will assist State Bicentennial Commissions and the Defense Department's bicentennial programs. It will expedite and expand opportunities for defense installations to achieve recognition for their programs in honor of the Constitution. Prior to this amendment, defense installations were required to comply with the same application process as civil, political jurisdictions such as counties, cities, towns, etc., including review by State Bicentennial Commissions.

In a far reaching effort, the Defense Department has invited all installation commanders to consider becoming Bicentennial Communities. This amendment to the Commission regulations will assist in this process and benefit all of the communities of servicemen and women who constitute the cohesive communities of defense installations.

Amendments

A new § 2001.38 has been added to authorize official recognition for defense communities, with definitions, qualification criteria, application

process, use of Logo and responsibilities set forth.

Paperwork Reduction Act

The information collection requirements are not subject to the Paperwork Reduction Act of 1980.

List of Subjects in 45 CFR Part 2001

Defense communities, Signs and symbols, U.S. Constitution.

Issued in Washington, DC on June 1, 1987.
Mark W. Cannon,
Staff Director.

PART 2001—[AMENDED]

1. The authority citation for Part 2001 continues to read as follows:

Authority: Pub. L. 98–101, 97 Stat. 719; as amended by Pub. L. 99–549, 100 Stat. 3063; 5 U.S.C. 552.

2. Part 2001 is amended by adding to Subpart C, § 2001.38, to read as follows:

Subpart C—Involvement with Bicentennial Projects

§ 2001.38 Bicentennial defense communities.

(a) *Purposes.* (1) In cooperation with the Department of Defense, the Commission encourages the commanders, leaders and governing staffs of defense installations within the United States and overseas to establish bicentennial defense communities. A principal purpose of authorizing bicentennial defense communities is to encourage servicemen and women and their families to participate in activities that will foster awareness, knowledge, and appreciation of the principles and history of the Constitution of the United States, the founding of the Federal Government and the Bill of Rights.

(2) A further purpose is to encourage cooperation between defense installations and neighboring communities in the commemoration of the bicentennial. This will also provide a means of acknowledging the far-reaching support for the Constitution's bicentennial which has been demonstrated through the Defense Department.

(b) *Definitions.* (1) The term "defense community" may include all of the installations within the jurisdiction of the Department of Defense which that Department considers to have numerical capacity and inherent characteristics of a cohesive community of servicemen and women and service families. This may include but is not limited to established forts, camps, air bases, naval stations, yards and bases, ships at sea, research facilities, academies, schools, training centers and similar installations.

(2) The term "within the United States" includes the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam and the Virgin Islands. "Overseas" refers to all installations which are not within the United States.

(c) *Qualification criteria.* A bicentennial defense community is one which:

(1) Has established or is in process of establishing a bicentennial committee broadly representative of a community of servicemen and women and service families, encompassed by the boundaries of an established defense installation and its environs;

(2) Has developed or is developing a commemorative program or plan to educate members of a defense community about the origins, meaning, and significance of the United States Constitution; and

(3) Has been certified in the Defense Department and received an official designation from the Commission.

(d) *Application process.* (1) To be designated as a bicentennial defense community, a defense installation shall first submit a completed application form prepared by and transmitted to the office within the Department of Defense which has been designated by the Secretary of Defense to receive such applications under paragraph (d)(3) of this section. Upon review by the appropriate Department of Defense office, the application shall be sent with a certification from the Defense Department to this Commission for its approval and official designation.

(2) The certification from the Department of Defense shall be accepted by the Commission as conclusive evidence that the application of a defense installation meets the definition requirements for a bicentennial defense community set forth under paragraph (a) of this section.

(3) The application form used by the Defense Department shall conform as nearly as possible to the format set forth in Appendix C to these regulations. Applications should include basic data on the defense installation's community, location and boundaries; identification of the installation commander and its bicentennial committee; and a brief statement as to how its commemorative program or plans will educate the applicant defense community about the meaning and significance of the Constitution. Applications should be sent to the following addresses:

Army: Chief of Public Affairs, ATTN: SAPA–CR, Washington, DC 20310–1508.
Navy: Chief of Information (01–51), Navy Department, Washington, DC 20350–1000.
Air Force: Office of Public Affairs, ATTN: SAF/PAC (Bicentennial), Community Relations Division, Washington, DC 20310–1000.
Marines: Headquarters, Marine Corps, Code PA (Bicentennial), Washington, DC 20380–0001.
Coast Guard: Headquarters, Commandant, United States Coast Guard, ATTN: G–BPA (Bicentennial), 2100 Second Street SW., Washington, DC 20593–0001.
Department of Defense: Department of Defense, Bicentennial Office, ATTN: SABC, The Pentagon, Room 3E522, Washington, DC 20310–0107.

(4) Upon approval and designation of a bicentennial defense community within the United States, a notification will be sent by the Commission to the appropriate State Bicentennial Commission. This notice shall contain a description of the newly approved bicentennial defense community, including the names and title of the defense installation commander and the chairman of its bicentennial committee. A similar notice shall be sent by the Commission to any nearby designated bicentennial community which has received approval under § 2001.37.

(e) *Use of logo.* (1) Bicentennial defense communities are authorized to use and to grant use of the National Bicentennial Logo without charge for all informational, educational, media and publication purposes which will assist the installation's bicentennial committee in efforts to educate the members of its community about the origins, meaning, and significance of the Constitution.

(2) In addition, use of the logo may be granted without charge to nonprofit organizations which are sponsors of projects officially recognized by the installation's bicentennial committee. Organization sponsors of such recognized projects, subject to the limitation of paragraph (e)(3) of this section, are authorized to use the logo only in connection with the recognized project. Such use shall include the legend, "Recognized by [Name of installation] a Bicentennial Defense Community."

(3) Within the United States, a use of the logo granted to a nonprofit organization shall be limited to the boundaries of a defense installation unless the nonprofit organization is part of a cooperative or joint commemorative program of a nearby designated bicentennial community.

(4) No use, sale, reproduction, manufacture, distribution or license of the logo may be granted to any profit-motivated person or organization without the express written permission of this Commission.

(f) *Responsibilities.* A bicentennial defense community shall be responsible for developing and carrying out activities and programs to honor the United States Constitution, the establishment of the Federal Government and the passage of the Bill of Rights. Specific programs recognized by a bicentennial defense community should be reported through the Department of Defense to the Commission so that they may be recorded in the National Register of Bicentennial Projects maintained by the Commission. A bicentennial defense community shall also monitor the use of the National Bicentennial Logo to assure that such use is consistent with the requirements of the Commission under Pub. L. 98–101, as amended, and these regulations.

(g) *Recognition.* Designated bicentennial defense communities shall be authorized to fly a bicentennial flag carrying the National Bicentennial Logo, to be displayed at appropriate places and times as determined by bicentennial committees and installation commanders. Each bicentennial defense community shall also receive a Certificate of Designation and such other forms of symbolic recognition as may be approved by the Commission or the Department of Defense.

[FR Doc. 87–13587 Filed 6–12–87; 8:45 am]

BILLING CODE 6340–01–M

45 CFR Part 2001

Project Recognition and Use of Logo; Educational Programs of Colleges and Universities

AGENCY: Commission on the Bicentennial of the United States Constitution.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends 45 CFR Part 2001 by adding § 2001.39 *Bicentennial Campuses* to Subpart C—*Involvement with Bicentennial Projects*, and adding Appendix E to Part 2001—*Bicentennial Campus Application*. The effect of this action is to permit the Commission to officially recognize educational programs about the Constitution, the establishment of the Federal government, and the Bill of Rights being conducted by colleges and universities.

DATES: This interim rule is effective April 24, 1987; comments must be received on or before July 31, 1987.

ADDRESS: Comments may be mailed or delivered to the Office of General Counsel, Commission on the Bicentennial of the United States Constitution, 736 Jackson Place NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joseph B. McGrath, General Counsel, Tel. (202) 275–9178.

SUPPLEMENTARY INFORMATION:

Background

Subpart C of 42 CFR Part 2001, the regulations governing the Commission's involvement in bicentennial projects sponsored by other organizations, was published as part of a final rule on October 15, 1986 (51 FR 36788–36789). Among other things, this regulation permitted the Commission to encourage and recognize "Bicentennial Communities" which developed commemorative programs related to the Constitution or Bill of Rights. A "Community" was defined in terms of various local government authorities, but did not, however, include institutions of higher learning. The Commission pursuant to its mission to "encourage private organizations, and State and local governments to organize and participate in bicentennial activities . . ." (Pub. L. 98–101, section 6(a)(2)), desires now to recognize commemorative programs developed by broadly representative groups within a campus community. The purpose of these regulations is to permit the Commission to recognize college and university campuses as a particular type of Community.

Amendments

(a) Section 2001.39 has been added to authorize official recognition, upon request, of bicentennial educational programs of colleges and universities.

(b) Appendix E has been added to establish a program recognition process adapted to the special needs and circumstances of institutions of higher learning.

Paperwork Reduction Act

The information collection requirements have been approved by the Office of Management and Budget through September 30, 1989, and have been assigned OMB control number 3312–0017.

List of Subjects in 45 CFR Part 2001

Signs and symbols, U.S. Constitution.

Issues in Washington, DC, on June 1, 1987.

Mark W. Cannon,

Staff Director.

PART 2001—[AMENDED]

1. The authority citation for Part 2001 continues to read as follows:

Authority: Pub. L. 98–101, 97 Stat. 719; as amended by Pub. L. 99–549, 100 Stat. 3063; 5 U.S.C. 552.

2. Part 2001 is amended by adding to Subpart C, § 2001.39, to read as follows:

Subpart C—Involvement with Bicentennial Projects

§ 2001.39 Bicentennial campuses.

(a) *Purposes.* The Commission wishes to encourage students, faculties, and staffs of colleges and universities to develop and implement programs, projects and activities to commemorate the bicentennial of the Constitution of the United States, the founding of the Federal Government, and the Bill of Rights. The following regulations are designed to assist State Bicentennial Commissions and Designated Bicentennial Communities, and should expedite procedures and expand opportunities for colleges and universities to achieve recognition for their bicentennial efforts.

(b) *Definitions.* The Commission encourages post-secondary institutions of higher learning to establish Bicentennial Campuses. The term "institution of higher learning" may include both two- and four-year colleges and universities., Vocational or technical institutes are not included unless they are part of an institution of higher learning. Branch campuses which

have separate locations and an established identity of their own, and which otherwise meet the criteria set forth below, may also apply for designation. The term "campus" means the administrative, educational, recreational and related buildings of a college or university and the lands surrounding and contiguous thereto, as defined by the policies and rules of the institution.

(c) *Qualification criteria.* A Bicentennial Campus is a campus which,

(1) Has established a bicentennial committee broadly representative of the campus community, including faculty, students, administration, and support staff;

(2) Has developed or is developing a commemorative program for the years 1987–1991 to educate members of the campus community about the origins, meaning and significance of the United States Constitution and the Bill of Rights; and

(3) Has received an official designation from the Commission.

(d) *Application process.* (1) To be considered as a Bicentennial Campus, an institution shall submit a completed application form to its State Bicentennial Commission. (See Appendix E.) This application shall be signed by the chief administrative officer of the institution. Upon approval by the State commission, the application with the State commission's recommendation shall be sent to this Commission for its review and decision. In the absence of a recognized State bicentennial commission, official recognition may be granted through submission of a completed application directly to this Commission where it will be reviewed and, if approved by the Commission's Staff Director, shall be granted.

(2) The Commission shall prepare, publish, and supply the required applicaton forms (Appendix E) and shall issue a Certificate of Designation to all institutions whose applications are approved by the Commission or its Staff Director.

(3) When a proposed Bicentennial Campus is located within the boundaries or environs of a Designated Bicentennial Community, the State Bicentennial Commission shall request a concurrence from the Designated Bicentennial Community and shall record this consent on the application.

(4) Upon approval and designation of a Bicentennial Campus, a notification shall be sent by the Commission to the appropriate State Bicentennial Commission. This notice shall contain a description of the newly approved Bicentennial Campus, including the names and titles of the chief administrative officer of the institution and the chairman of its bicentennial committee. A similar notice shall be sent by the Commission to any Designated Bicentennial Community in or near the institution.

(e) *Use of Logo.* (1) A bicentennial committee of a certified Bicentennial Campus is authorized without charge:

(i) To use the National Bicentennial Logo on its stationery, publications, displays and program materials, provided the legend "[Name of institution], a Bicentennial Campus" is printed in close proximity to it; and

(ii) To grant use of the National Bicentennial Logo for all informational, educational, media, publication, and public awareness purposes which will assist the institution's bicentennial committee in its efforts to involve members of the campus community in its programs. Use of the logo is authorized only for programs initiated and carried out, to the fullest extent possible, within the boundaries of a Bicentennial Campus.

(2) This includes granting use of the logo to campus organizations which have programs officially approved or recognized in writing by the bicentennial committee. Such use shall include the legend "Recognized by [Name of institutional], a Bicentennial Campus."

(3) No use, sale, reproduction, manufacture, distribution, or license of the logo may be granted to any profit-motivated person or organization without the express written permission of this Commission.

(f) *Responsibilities.* A Bicentennial Campus shall be responsible for developing and carrying out activities and programs to honor the United States Constitution, the establishment of the Federal Government, and the ratification of the Bill of Rights. Such programs should continue during the entire period of commemoration, ending in 1991. Specific programs recognized by an institution's bicentennial committee should be reported to the Designated Bicentennial Community (where applicable), the State Bicentennial Commission, and to this Commission so that they may be recorded in the National Register of Bicentennial Projects maintained by the Commission. A Bicentennial Campus shall also monitor the use of the National Bicentennial Logo to assure that such use is consistent with the requirements of the Commission under Pub. L. 98–101, as amended, and these regulations.

(g) *Recognition.* Bicentennial Campuses shall receive a Certificate of Designation and such other forms of symbolic recognition as may be approved by the Commission. A Bicentennial Campus shall be authorized to fly a National Bicentennial Logo flag with the institution name imprinted above the Logo and the words "Bicentennial Campus" beneath it.

(Approved by the Office of Management and Budget under control number 3312–0017)

3. Part 2001 is also amended by adding Appendix E, to read as follows:

BILLING CODE 6340-01-M

Appendix E to Part 2001—Bicentennial Campus Application

BICENTENNIAL CAMPUS APPLICATION

The Commission on the Bicentennial of the United States Constitution takes great pleasure in extending to you and your campus a cordial invitation to participate in the 200th anniversary of the writing of the Constitution, its ratification, the formation of the federal government, and the adoption of the Bill of Rights.

The creation and development of our representative government from Revolution through Independence and to the present is a remarkable story that deserves serious and sustained attention from the academic community. The Bicentennial Campus Program encourages colleges and universities throughout the country to participate in this study of American history. We urge you to join this program by completing the enclosed application.

REGULATIONS ON DESIGNATING BICENTENNIAL CAMPUSES

The Commission encourages institutions of higher learning to become Bicentennial Campuses. The term "institution of higher learning" means two- and four-year colleges and universities; vocational or technical institutes are not included unless part of an institution of higher learning. Branch campuses which have separate locations and established identities of their own and which otherwise meet the criteria, may also apply for designation.

A Bicentennial Campus is one which [1] has established a Bicentennial Committee broadly representative of the campus community; [2] has developed or is developing a commemorative program to educate members of the campus community about the meaning and significance of the U. S. Constitution and the Bill of Rights; and, [3] has received an official designation from the federal Commission.

To be considered a Bicentennial Campus, an institution should submit a completed application form to its State Bicentennial Commission. Upon approval by the State Commission, the application with the State Commission's approval noted will be sent to the federal Commission for its review and decision. Notification of approval as a Bicentennial Campus then will be forwarded to the campus Bicentennial Committee by the federal Commission.

EDUCATIONAL PROGRAMS
COMMISSION ON THE BICENTENNIAL
OF THE
UNITED STATES CONSTITUTION

736 Jackson Place, N.W.
Washington, D.C. 20503
[202] 653-5109

BASIC DATA

(Please Type or Print)

DATE OF APPLICATION:	NAME OF INSTITUTION:		
TYPE [2-yr., 4-yr., university]:	NUMBER OF STUDENTS:	STATE:	CONGRESSIONAL DISTRICT NUMBER:
MAILING ADDRESS [include zip]:			
OFFICIAL TITLE OF BICENTENNIAL COMMITTEE:			
CAMPUS BICENTENNIAL CHAIRPERSON:			PHONE NUMBER [include area code]:
MAILING ADDRESS [include zip]:			
NAME OF CHIEF ADMINISTRATIVE OFFICER [President or Chancellor]:			PHONE NUMBER [include area code]:
MAILING ADDRESS [include zip]:			

BRIEF OUTLINE OF BICENTENNIAL PLANS 1987–1991

BICENTENNIAL CAMPUS APPLICATION

_____

[Name of Institution]

Please list names, addresses and titles of the members of your Bicentennial committee. If you need more space to list members, use blank sheets and attach.

NAME	ADDRESS	TITLE

CERTIFICATION

IT IS CERTIFIED:

1. That as Chairperson of the Bicentennial Committee, I am Authorized to Sign This Certification.
2. That all the Above Procedural Steps Have Been Accomplished.
3. That the Undersigned or my Successor will Furnish Periodic Progress Reports When Requested.
4. That if Approved, the National Logo will be Used in Accordance With Federal Commission Regulations.

_____

Signature of Chairperson

SEAL

_____

Signature of Chief Administrative Officer

FOR STATE COMMISSION USE ONLY

Date Application Received: _____

Official Name of State Bicentennial Commission

_____

Chairperson: _____

Approved By: _____

[Signature and title of authorized officer]

Date of Concurrence by Designated Bicentennial Community: _____

Date Sent to National Commission: _____

COMMENTS:

FOR FEDERAL COMMISSION USE ONLY

COMMISSION ON BICENTENNIAL OF THE UNITED STATES CONSTITUTION
EDUCATIONAL PROGRAMS DIVISION
736 JACKSON PLACE, N.W., WASHINGTON, D.C. 20503

BICENTENNIAL CAMPUS CLEARANCE FORM

DATE RECEIVED:	REVIEWED BY:	DATE:

CHECK LIST:

☐ 1. State Approval ☐ 2. DBC Approval ☐ 3. List of Members ☐ 4. Program ☐ 5. Signatures ☐ 6. Other [*see remarks*]

REMARKS:

RECOMMENDED FOR APPROVAL BY:	DATE:

APPROVAL GRANTED BY:	DATE:

NOTIFICATION OF DESIGNATION [*Dates*]:	STATE:	COMMUNITY:

[FR Doc. 87-13588 Filed 6-12-87; 8:45 am]
BILLING CODE 6340-01-C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 87-174]

Practice and Procedure; Modification of FM or Television Licenses

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises § 1.87 of the Commission's Rules with respect to a modification of license under section 316 of the Communications Act of 1934, as amended. The revised rule establishes a procedure to provide for a modification of station licenses without an automatic right to a hearing. This action is taken to avoid the delay and expense of unnecessary public hearings.

EFFECTIVE DATE: July 20, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Policy & Rules Division, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, adopted May 1, 1987, and released June 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

Section 1.87 is revised to read as follows:

§ 1.87 Modification of license or construction permit on motion of the Commission.

(a) Whenever it appears that a station license or construction permit should be modified, the Commission shall notify the licensee or permittee in writing of the proposed action and reasons therefor, and afford the licensee or permittee at least thirty days to protest such proposed order of modification, except that, where safety of life or property is involved, the Commission may by order provide a shorter period of time.

(b) The notification required in paragraph (a) of this section may be effectuated by a notice of proposed rule making in regard to a modification or addition of an FM or television channel to the Table of Allotments (§§ 73.202 and 73.504) or Table of Assignments (§ 73.606). The Commission shall send a copy of any such notice of proposed rule making to the affected licensee or permittee by certified mail, return receipt requested.

(c) Any other licensee or permittee who believes that its license or permit would be modified by the proposed action may also protest the proposed action before its effective date.

(d) Any protest filed pursuant to this section shall be subject to the requirements of section 309 of the Communications Act of 1934, as amended, for petitions to deny.

(e) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission except that, with respect to any issue that pertains to the question of whether the proposed action would modify the license or permit of a person filing a protest pursuant to paragraph (c) of this section, such burdens shall be as described by the Commission.

(f) In order to utilize the right to a hearing and the opportunity to appear and give evidence upon the issues specified in any hearing order, the licensee or permittee, in person or by attorney, shall, within the period of time as may be specified in the hearing order, file with the Commission a written statement stating that he or she will appear at the hearing and present evidence on the matters specified in the hearing order.

(g) The right to file a protest or have a hearing shall, unless good cause is shown in a petition to be filed not later than 5 days before the lapse of time specified in paragraph (a) or (f) of this section, be deemed waived:

(1) In case of failure to timely file the protest as required by paragraph (a) of this section or a written statement as required by paragraph (f) of this section.

(2) In case of filing a written statement provided for in paragraph (f) of this section but failing to appear at the hearing, either in person or by counsel.

(h) Where the right to file a protest or have a hearing is waived, the licensee or permittee will be deemed to have consented to the modification as proposed and a final decision may be issued by the Commission accordingly. Irrespective of any waiver as provided for in paragraph (g) of this section or failure by the licensee or permittee to raise a substantial and material question of fact concerning the proposed modification in his protest, the Commission may, on its own motion, designate the proposed modification for hearing in accordance with this section.

(i) Any order of modification issued pursuant to this section shall include a statement of the findings and the grounds and reasons therefor, shall specify the effective date of the modification, and shall be served on the licensee or permittee.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-13425 Filed 6-12-87; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 505

[APD 2800.12 CHGE 46]

General Services Administration Acquisition Regulation; Commerce Business Daily Requirements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to revise Part 505 to provide for publication of proposed acquisitions of real property appraisal services in local newspapers, to authorize direct submission of synopsis messages to the *Commerce Business Daily* (CBD) by contracting officers rather than through the GSA Business Service Centers, and to provide an exception to the CBD publication requirement and publicizing and response times for proposed acquisitions of real property appraisal services. Acquisition Circular AC-86-7

is canceled. The intended effect is to improve the regulatory coverage by having it conform to applicable Federal regulations and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: June 9, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations on (202) 523–4765.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 1986, the General Services Administration published in the **Federal Register** (51 FR 41506) Acquisition Circular AC–86–7 which temporarily amended Part 505 of the GSAR to implement the provisions of Pub. L. 99–500, Continuing Resolution for Appropriations FY 1987, Title IX section 922, which increased certain requirements relating to small purchases.

Comments received from MSTC, the Association for Information and Image Management, and from various GSA offices have been reviewed, reconciled and incorporated when appropriate in the final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.).* The publication of proposed acquisitions of real property appraisal services in local newspapers instead of the CBD will benefit small businesses in the industry because announcements of contracting opportunities will appear in publications that are more often read by appraisers. The change authorizing contracting offices to transmit messages directly to the CBD will only affect the internal operations of the agency. The change regarding posting of proposed procurements expected to exceed $10,000 but not to exceed $25,000 is merely implementing a higher level regulation (the Federal Acquisition Regulation). The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.).*

List of Subjects in 48 CFR Part 505

Government procurement.

PART 505—PUBLICIZING CONTRACT ACTIONS

1. The authority citation for 48 CFR Part 505 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. The table of contents for Part 505 is amended by adding § 505.203 to read as follows:

Subpart 505.2—Synopsis of Proposed Contracts

* * * * *

Sec.

505.203 Publicizing and response time.

* * * * *

3. Section 505.101 is amended by redesignating paragraphs (a) and (b) as (b) and (c), and adding new paragraphs (a) and (d) to read as follows:

505.101 Methods of disseminating information.

(a) Contracting offices may post the notice required by FAR 5.101(a)(2) at the Business Service Center (BSC) when located in the same geographic area as the BSC. Unless there is an unusual and compelling need for the supplies or services being procured, the closing date established for receipt of offers must be after the 10 day period for posting the information required by FAR 5.207 (c) and (f) or the solicitation.

(b) The appropriate Business Service Center shall be furnished a copy of solicitation documents (except solicitations for leases of real property) when the estimated contract amount is expected to exceed the small purchase limitation. The Business Service Centers shall display the solicitation documents so they are readily available and accessible for public examination.

(c) Proposed acquisitions of leasehold interests in real property involving blocks of space of 10,000 or more square feet shall be publicized in local newspapers and/or periodicals unless exempt under FAR 5.202 or 505.202. Proposed leases of less than 10,000 square feet may be publicized in local newspapers and/or periodicals when the contracting officer determines such advertising will serve to promote competition.

(d) Proposed acquisitions of real property appraisal services, estimated to cost $10,000 or more, shall be publicized in local newspapers, unless exempt under FAR 5.202 or 505.202.

4. Section 505.201 is revised to read as follows:

505.201 General.

All synopsis messages for proposed procurements may be forwarded directly to the *Commerce Business Daily* with an information copy to the appropriate Business Service Center (BSC). Contracting offices shall ensure that internal procedures for forwarding messages to the *Commerce Business Daily* comply with FAR 5.203, Publicizing and response time. Submission to the Commerce Department must be in accordance with FAR 5.207.

5. Section 505.202 is amended by adding paragraph (c) to read as follows:

505.202 Exceptions.

* * * * *

(c) The Administrator has determined under section 18(c)(3) of the Office of Federal Procurement Policy Act, that the *Commerce Business Daily* is not appropriate for publicizing requirements for real property appraisal services and that proposed acquisitions of real property appraisal services, estimated to cost $10,000 or more, shall be published in local newspapers.

6. Section 505.203 is added to read as follows:

505.203 Publicizing and response time.

Proposed acquisitions of real property appraisal services, estimated to cost $10,000 or more, must be publicized in local newspapers at least 3 days before issuance of a solicitation, unless exempt from publicizing by FAR 5.202. Offerors must be provided at least 10 days to respond to a solicitation for real property appraisal services.

7. Section 505.207 is amended by revising paragraph (b) to read as follows:

505.207 Preparation and transmittal of synopses.

* * * * *

(b) Text of synopsis messages must be prepared as prescribed in FAR 5.207.

* * * * *

Dated: June 3, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–13540 Filed 6–12–87; 8:45 am]

BILLING CODE 6820–61–M

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48 CFR Part 509

[APO 2800.12 CHGE 45]

General Services Administration Acquisition Regulation; Suspension and Debarment

AGENCY: Office of Acquistion Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise § 509.403 to conform to the current

organizational title, to revise § 509.404 to delete reference to the Automated Consolidated List, and revise § 509.405 to add text to provide guidance concerning treatment to be accorded bids and proposals received from suspended, debarred, or ineligible contractors. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: June 3, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Office of GSA Acquisition Policy and Regulations, 18th and F Streets NW., Room 4029, Washington, DC 20405 (202) 523–4764.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 1987, The General Services Administration (GSA) published GSAR Notice 5–169 in the **Federal Register** (52 FR 10913) inviting comments from interested parties on proposed changes to the regulation and provided a 30-day comment period. No comments were received from the public. Comments received from various GSA offices have been reviewed, reconciled, and incorporated, when appropriate, in this rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule provides guidance to GSA contracting activities on treatment to be accorded bids and proposals received from suspended, debarred, or ineligible contractors. The rule does not contain information collection requirements which require approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 48 CFR Part 509

Government procurement.

PART 509—CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR Part 509 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 509.403 is amended by revising paragraph (a) to read as follows:

509.403 Definitions.

(a) "Debarring official" and "suspending official" mean the Associate Administrator for Acquisition Policy or a designee.

* * * * *

3. Section 509.404 is revised to read as follows:

509.404 Consolidated List of debarred, suspended, and ineligible contractors.

The debarring and suspending official is responsible for compiling and maintaining the Consolidated List. HCA's shall ensure that the Consolidated List is used effectively by agency contracting officers.

4. Section 509.405 is revised to read as follows:

509.405 Effect of listing.

Prior to initiating a pre-award survey or any procurement action, the Consolidated List, as well as the list of contractors proposed for debarment by GSA, must be reviewed by the responsible contracting officer. Bids received from any listed contractor in response to an Invitation for Bids will be opened, entered on the Abstract of Bids, and rejected unless the debarring or suspending official determines in writing that there is a compelling reason to consider the bid. Proposals, quotations or offers received from any listed contractor must not be evaluated for award or included in the competitive range, and discussions must not be conducted with such offeror, unless the debarring or suspending official determines, in writing, that there is a compelling reason to do so.

Dated: June 3, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–13541 Filed 6–12–87; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 70345–7101]

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement Amendment 1 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic (FMP). The Secretary of Commerce has approved Amendment 1 with the exception of certain measures which were conditionally approved. The measures conditionally approved change the fishing seasons, establish a recreational bag limit, and require commercial permits and the use of live wells. These measures will be implemented when the specified conditions are met. The requirement of a recreational permit was approved, but its implementation was reserved. Measures approved and implemented by this rule incorporate slipper lobster into the management unit, prohibit the retention and use of egg-bearing spiny and slipper lobsters, and reduce the number of undersized spiny lobsters allowed to be held on board for use as attractants. The intended effect of this rule is to prevent overfishing of the spiny lobster and slipper lobster stocks, to rebuild and maintain the stocks at a maximum sustainable yield level through protection of undersized spiny lobsters, and to provide for more consistent State and Federal management measures.

EFFECTIVE DATE: July 15, 1987.

ADDRESS: Copies of the final supplemental environmental assessment and the supplemental regulatory impact review are available from Michael E. Justen, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL, 33702.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–893–3722.

SUPPLEMENTARY INFORMATION: The spiny lobster fishery is managed under the FMP and its implementing regulations at 50 CFR Part 640 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). These regulations implement Amendment 1 to the FMP which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). A notice of availability of the amendment and request for comments was published on February 25, 1987 (52 FR 5564). A proposed rule to implement Amendment 1 was published on March 18, 1987 (52 FR 8487). A notice of availability of a minority report on the amendment by some members of both Councils was published on April 3, 1987 (52 FR 10780; corrected at 52 FR 13257, April 22, 1987).

The FMP manages the spiny lobster fishery throughout the exclusive economic zone (EEZ) off the South Atlantic coastal States from the Virginia/North Carolina border south and through the Gulf of Mexico. The

management unit for the FMP has consisted of the spiny lobster, *Panulirus argus;* this final rule adds the slipper (Spanish) lobster, *Scyllarides nodifer.*

The preamble to the proposed rule contained information on the fishery, discussed problems in the fishery, discussed the proposed regulatory changes and analyzed the benefits of the proposed changes. That information is not repeated here.

Comments and Responses

Seventeen written responses were received commenting on the proposed rule and amendment. The sources of the comments were ten recreational fishermen, two commercial fishermen, two Federal agencies, a commercial fishing organization, the State of Florida, and a minority group composed of members of both Councils. For convenience of discussion, the issues raised by commenters are summarized by category.

1. Inconsistent Federal and State (Florida) Regulations

The Councils prepared Amendment 1 with the understanding that its management measures would parallel Florida's proposed management measures, which had not been issued at that time. The Florida proposed rule differed substantially from the Federal proposed rule with regard to (1) opening dates for the 1987 fishing season, (2) bag limits for recreational fishermen, and (3) permitting requirements. The Florida Marine Fisheries Commission (FMFC) provided comments and requested modification of the Federal proposed rule to correspond to the State's proposed rule. Under the Magnuson Act, the Secretary is not authorized to so modify the proposed rule. Implementing the originally proposed measures only in the EEZ would cause confusion among fishermen and complicate enforcement. Therefore, the Secretary conditionally approved and NOAA will implement these measures when the State has compatible regulations.

2. Use of Undersized Spiny Lobsters as Attractants

Three recreational fishermen, two Federal agencies, one State natural resource agency and members of both Councils through a minority report objected to the use of undersized lobsters as attractants in the commercial trap fishery. The recreational fishermen opposed this practice because they believed the resulting reduction in yield led to the imposition of bag limits on them. The U.S. Department of Interior, Fish and Wildlife Service, and the FMFC opposed this practice because of the high mortality of undersized lobsters associated with on-board handling, exposure to air, and confinement in traps. They believed this practice resulted in overfishing and reduction in yield from the fishery. The U.S. Department of Transportation (U.S. Coast Guard) opposed the possession and use of undersized lobsters as attractants in traps because it impedes enforcement of the minimum size regulations. The minority report urged the Secretary to prohibit this practice beginning with the 1989/1990 fishing season and to require escape gaps in traps.

The Organized Fishermen of Florida, a non-profit organization representing commercial fishing interests, supported the use of undersized lobsters as attractants. They contend that this practice is necessary because the catch per trap when baited with undersized lobsters is three times that for traps using the next best bait.

The Councils reviewed all of the information on live wells and the use of undersized lobsters as attractants in traps and concluded that reduction in the number of undersized lobsters held on board from 200 to 100, coupled with the use of live wells, will substantially reduce the mortality of undersized lobsters due to handling and exposure. The Councils specifically rejected measures such as prohibiting the use and/or possession of undersized lobsters and requiring escape gaps due to the potentially significant negative economic and social impacts on commercial fishermen. NOAA agrees with the Councils and will implement the measure reducing the number of undersized lobsters held on board to be used as attractants to 100. Implementation of the use of live wells is discussed below.

3. Change in the Opening of the Regular Season.

Five recreational fishermen and the FMFC requested the Secretary to delay until 1988 the change in the opening of the regular season. They objected to any change this year in the opening date for the regular season, as such a change would disrupt planned vacations and result in adverse economic impacts for tourist-related businesses.

NOAA agrees that Federal regulations and changes in the opening of the regular season should be compatible with State regulations. Therefore, NOAA will change the opening of the regular season, as set forth in the proposed Federal rule, when Florida implements a compatible change in State regulations.

4. Bag Limits

Four recreational fishermen and the FMFC commented on the recreational bag limit. The recreational fishermen opposed the bag limit as being unnecessary because they believed the commercial sector was solely responsible for the overfishing. The FMFC asked NOAA to accept the bag limit in the proposed State rule. Under the proposed State rule, a boat limit of 24 would allow parties of up to three persons in a boat to possess more than 6 spiny lobsters per person per day.

NOAA reviewed the comments and concluded that implementation of the bag limit, as was set forth in the proposed Federal rule, is a necessary management measure but that it should be delayed until there are compatible State regulations. This delay will prevent confusion among fishermen and lessen problems for enforcement agents.

5. Permits

Two commercial and three recreational fishermen and the U.S. Coast Guard commented on the use of Federal fisheries permits for the commercial sector. A commercial and a recreational fisherman supported the requirement that the Federal permit should be used to identify commercial fishermen and to restrict recreational fishermen to a bag limit. Two recreational fishermen opposed the ten percent earned income criterion for obtaining the Federal permit because they would not qualify for a permit and would be restricted to the bag limit. The FMFC did not adopt the requirement anticipated by the Councils that the holder of a State crawfish license possess a Federal permit. To possess spiny lobster in excess of the bag limit under the proposed Federal rule, a fisherman must obtain a Federal permit. A fisherman must have derived at least ten percent of his earned income from commercial fishing during the preceding calendar year to be eligible for the Federal permit. Under the proposed State rule, individuals need only purchase two licenses—a salt water products license and a crawfish license—to commercially fish for spiny lobsters.

The U.S. Coast Guard opposed the use of a tailing permit in the EEZ because it would be too difficult to enforce. Allowing fishermen to possess the tail of a lobster creates conditions for fishermen to circumvent the regulations on the minimum size limits and spearing of spiny lobster.

NOAA concluded that the system for issuing commercial Federal fisheries

permits should be implemented when the State adopts a management regime which is compatible with the proposed Federal rule.

As discussed in the proposed rule and in Amendment 1, the requirement for a recreational fishing permit will be proposed by a separate regulatory amendment when Florida proposes a recreational fishing permit for State waters. To avoid unnecessary duplication, implementation may consist of requiring those who fish recreationally in the EEZ to have a State permit.

6. Enforcement Costs

The U.S. Coast Guard wanted a definitive statement on the cost of enforcement. NOAA believes that these measures will not add new requirements for enforcement resources; rather, these measures allow the law enforcement agencies to better utilize existing resources. In effect, these regulations do not increase the cost of enforcement of the FMP.

7. Safety Aspects of Live Wells

The Coast Guard objected to the use of live wells filled with water on vessels since this requirement could adversely affect the vessels' safety. To comply with the amendment, a fisherman wishing to hold 100 undersized lobsters on board would need a well tank of over 75 gallons' capacity which would add nearly 650 pounds above the water line of a vessel. In addition, depending upon the tank's design, movement of the water in this tank could further reduce a vessel's stability.

NOAA agrees the safety aspects of the use of live wells should be examined and will not implement this measure until the safety concerns are resolved.

Approval of Amendment 1

Final regulations (1) incorporating slipper lobsters into the management unit, (2) requiring immediate release of egg-bearing slipper and spiny lobsters to the open water, (3) prohibiting the use of egg-bearing spiny lobsters as attractants, and (4) reducing the number of undersized spiny lobsters held aboard vessels for use as attractants to 100 are effective July 8, 1987. These measures will provide added protection to the slipper and spiny lobster resources during the forthcoming fishing season. The remaining measures are not implemented now for the reasons specified above. The Councils will explore ways to reduce the inconsistencies between Florida and Federal regulations; the U.S. Coast Guard or appropriate organizations will be requested to conduct the necessary research to resolve the vessel safety concerns associated with live wells.

Procedures for Implementing Delayed Measures

Measures which are conditionally approved and not implemented now include: (1) commercial fishing permit; (2) a tailing permit for separation of tails from whole lobsters; (3) change in the beginning date of the regular fishing season; (4) extension of the trap removal period; (5) a recreational bag limit; and (6) the use of live wells filled with aerated circulating sea water. These measures were published as part of the proposed rule and will be implemented in one or more final rulemaking actions when the specified conditions are met. If any condition is not met, an amendment to the FMP will be necessary to implement the measure to which the condition applies.

Changes from the Proposed Rule

In § 640.2, unnecessary language in the definition for *Authorized Officer* is removed, the telephone number under *Center Director* is corrected, and the definitions no longer used for *Commercial fisherman* and *Recreational fisherman* are removed.

In § 640.3, paragraph (c) is revised to clarify that the U.S. Coast Guard is not a party to the State/Federal agreement for data collection.

In § 640.6, paragraph (i) is reworded for clarity and to specify that unmarked buoys are illegal gear.

In § 640.7, specific prohibitions are added for interference with a search, seizure, or sale of seized lobsters to clarify that such conduct is prohibited. These prohibitions enhance substantive provisions of the regulations and will facilitate effective enforcement. Also added is a prohibition on exceeding a recreational catch limit. This management measure was included in the proposed rule but without a specific prohibition.

Classification

The Regional Director determined that Amendment 1 is necessary for the conservation and management of the spiny and slipper lobster fishery of the Gulf of Mexico and the South Atlantic and that it is consistent with the Magnuson Act and other applicable law.

The Councils prepared an environmental assessment (EA) for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA may be obtained from NMFS (See ADDRESS).

The Administrator of NOAA determined that this rule is not a "major rule", requiring a regulatory impact analysis under Executive Order 12291. The amendment's management measures are designed to increase current landings, enhance productivity of the stock, and prevent overfishing of the spiny and slipper lobster stocks. The major benefits from this amendment are greater than the associated Federal costs to manage the fishery on a continuing basis. The Councils prepared a supplemental regulatory impact review (SRIR) which concluded that this rule will increase the likelihood of achieving the projected benefits described in the FMP through more effective enforcement and a reduction in mortality of undersized lobsters. No regulatory-induced price increases or Federal enforcement costs should occur. A copy of the SRIR may be obtained from NMFS (see ADDRESS).

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because it will not significantly reduce harvest levels, alter current fishing practices, or impose significant new costs on the industry. As a result, a regulatory flexibility analysis was not prepared.

The proposed rule contained a collection of information requirement subject to the Paperwork Reduction Act; however, § 640.4, which contained that collection of information requirement, is not being implemented now. Approval from the Office of Management and Budget will be obtained before § 640.4 is implemented.

The Councils determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Louisiana, Mississippi and South Carolina Agreed with this determination. Alabama, Florida, and North Carolina did not respond, therefore, consistency is automatically implied. Georgia and Texas do not have approved coastal zone management programs.

List of Subjects in 50 CFR Part 640

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 9, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 640 is amended as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for Part 640 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 640.1, the second sentence is revised to read as follows:

§ 640.1 Purpose and scope.

* * * The regulations in this part govern fishing for spiny lobster and slipper (Spanish) lobster by vessels of the United States within the EEZ in the Atlantic Ocean and Gulf of Mexico along the coast of the South Atlantic States from the Virginia/North Carolina border south and through the Gulf of Mexico.

3. In § 640.2, the definitions for *Commercial fisherman, Fishery conservation zone (FCZ),* and *Recretional fisherman* are removed; paragraph (b) under the definition for *Authorized officer,* the telephone number under *Center Director,* and the definition for *Fish* are revised; and new definitions for *Commercial fishing, Exclusive economic zone (EEZ), Recretional fishing,* and *Slipper (Spanish) lobster* are added in alphabetical order to read as follows:

§ 640.2 Definitions.

* * * * *

Authorized officer means:

* * * * *

(b) Any special agent of the National Marine Fisheries Service;

* * * * *

Center Director * * * telephone 305–361–4200.

* * * * *

Commercial fishing means any fishing or fishing activities which result in the harvest of any marine or freshwater organisms, one or more of which (or parts thereof) is sold, traded, or bartered.

* * * * *

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fish includes the spiny lobster, *Panulirus argus,* and the slipper (Spanish) lobster, *Scyllarides nodifer.*

* * * * *

Recreational fishing means fishing or fishing activities which result in the harvest of fish, none of which (or parts thereof) is sold, traded, or bartered.

* * * * *

Slipper (Spanish) lobster means the species *Scyllarides nodifer.*

* * * * *

4. In § 640.3, paragraph (c) is revised to read as follows:

§ 640.3 Relation to other laws.

* * * * *

(c) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a State/Federal agreement for data collection and a tripartite agreement among the State, the U.S. Coast Guard, and the Secretary for enforcement.

5. In § 640.6, paragraph (i) is revised to read as follows:

§ 640.6 Gear and vessel identification.

* * * * *

(i) An unmarked spiny lobster trap or buoy in the EEZ is illegal gear. Such trap, buoy, and connecting line may be disposed of in any manner considered appropriate by the Secretary or an authorized officer. An owner of such a trap or buoy remains subject to appropriate civil penalties.

6. In § 640.7, paragraphs (a) through (r) are redesignated as (a)(1) through (a)(18); newly redesignated paragraphs (a)(4), (6), (7), (10), and (11) are revised; in newly redesignated paragraph (a)(15), the reference to paragraph "(n)" is removed and "(a)(14)" is added in its place; in newly redesignated paragraph (a)(18), the word "or" at the end of the paragraph is removed; new paragraphs (a)(19), (20), and (21) are added; and paragraph (s) is redesignated as (b) and revised and the introductory text is designated as paragraph (a) and revised to read as follows:

§ 640.7 General prohibitions.

(a) It is unlawful for any person to do any of the following:

* * * * *

(4) Harvest a spiny lobster with a trap except during the season specified in § 640.20(a)(1);

* * * * *

(6) Retain on board or possess on land a berried spiny or slipper lobster taken on the EEZ;

(7) Strip eggs from or otherwise molest a berried spiny or slipper lobster, as specified in § 640.21(a);

* * * * *

(10) Catch or retain more spiny lobsters during the special non-trap recreational fishery than are specified in § 640.21(c);

(11) Retain spiny lobsters smaller than the minimum size, except as specified in § 640.22;

* * * * *

(19) Fail to return immediately to the water unharmed a berried (egg-bearing) spiny or slipper lobster, as specified in § 640.21(a);

(20) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search in the process of enforcing this part; or

(21) Interfere with, obstruct, delay, or in any other manner prevent the seizure of illegally taken spiny or slipper lobster or the final disposition of such lobster through sale.

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

7. In § 640.21, paragraphs (a) and (c) are revised to read as follows:

§ 640.21 Harvest limitations.

(a) *Berried lobsters.* A berried spiny lobster or slipper lobster must be returned immediately to the water unharmed. If found in a trap, a berried lobster may not be retained in the trap. A berried lobster may not be stripped of its eggs or otherwise molested.

* * * * *

(c) *Recreational catch.* During the two-day season described in § 640.20(c), the catch is limited to six spiny lobsters per person per day, up to a maximum of 24 spiny lobsters per boat per day.

8. In § 640.22, paragraph (b) is revised to read as follows:

§ 640.22 Size limitations.

* * * * *

(b) Live spiny lobsters under the minimum size may be held in a shaded live box aboard a vessel for use as attractants in traps. No more than one hundred undersized spiny lobsters may be carried on board for use as attractants.

§§ 640.2, 640.3, 640.4, 640.6, 640.7, 640.20, 640.23 [Amended]

9. In addition to the amendments set forth above, the initials "FCZ" are removed and the initials "EEZ" are added in their place in the following places:

§ 640.2, definition of *Management area;*
§ 640.3(a);
§ 640.4;
§ 640.6(g) and (h);
§ 640.7(a)(5) and (a)(18);
§ 640.20(d); and
§ 640.23(b)(1).

[FR Doc. 87–13618 Filed 6–12–87; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 114
Monday, June 15, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction; Eligibility of Nonprogram Schools

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations governing donation of foods to clarify the circumstances under which donated foods may be made available to schools which do not participate in the National School Lunch or School Breakfast Programs and are not "commodity" schools. This proposed regulation would also specify the types of commodities which such schools would be eligible to receive. This amendment would improve the program by ensuring a consistent policy for dealing with these schools.

DATE: To be assured of consideration, comments must be received or postmarked on or before August 14, 1987.

ADDRESS: Comments should be sent to: Beverly A. King, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U. S. Department of Agriculture, Alexandria, Virginia 22302. Comments in response to this proposal may be inspected at 3101 Park Center Drive, Room 502, Alexandria, Virginia during normal business hours (8:30 a.m. to 5:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Beverly A. King, Chief, Program Administration Branch (703) 756-3660.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified as not major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices for program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This regulation has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). Pursuant to the review, the Administrator of the Food and Nutrition Service has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this rule are subject to approval by the Office of Management and Budget (OMB) before becoming effective.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.550 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983.)

Background

Section 416 of The Agricultural Act of 1949 (7 U.S.C. 1431) authorizes the Department to donate commodities for use by various recipients in the United States including "nonprofit school lunch programs". Traditionally, these commodities, as well as donated foods distributed under other legislative authorities, have been made available primarily to schools which participate in the National School Lunch Program (NSLP), School Breakfast Program (SBP) or which participate as "commodity" schools under section 14(f) of the National School Lunch Act. There are, however, some nonprofit school lunch programs which do not participate in any of the above programs, and these schools are not addressed specifically in the regulations governing donation of food. Despite this omission, these "nonprogram schools" are eligible to receive certain types of commodities. Section 416 refers generally to nonprofit school lunch programs. The Department has concluded, therefore, that other commodity items distributed under the authority of section 416 may be made available to nonprogram schools

For these reasons, the Department is proposing to amend § 250.8 (a) of the regulations governing donation of food to clarify that nonprogram schools are eligible to receive certain types of commodities provided they satisfy specified eligibility criteria established for schools which participate in the NSLP or SBP or which are "commodity" schools. First, the school must either be public or have nonprofit status as determined by the Internal Revenue Service. Secondly, the school food service must be operated on a nonprofit basis. Finally, if private, the school must not charge tuition in excess of the limit established for the NSLP, to ensure that benefits are directed primarily toward needier recipients. Once approved, nonprogam schools will qualify to receive commodities designated by the Department. Nonprogram schools which are approved to receive these commodities will be required to comply with all provisions of 7 CFR Part 250.

List of Subjects in 7 CFR Part 250

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs—social programs, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities. Accordingly, the Department is proposing to amend 7 CFR Part 250 as follows:

PART 250—DONATIONS OF FOOD FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 is revised to read as follows:

Authority: Sec. 32, Pub. L. 74-320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75-165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79-396 (42 U.S.C. 1755, 1758); sec. 416, Pub. L. 81-439, 63 Stat. 1058 (7 U.S.C. 1431); sec. 402, Pub. L. 91-665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84-540, 70 Stat. 202 (7 U.S.C. 1859); sec. 9, Pub. L. 85-931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86-756, 74 Stat.

899 (7 U.S.C. 1431 nt); sec. 709, Pub. L. 89–321, 79 Stat. 1212 (7 U.S.C. 1446a–1); sec. 3, Pub. L. 90–302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93–288, 88 Stat. 157 (42 U.S.C. 5179, 5180); sec. 2, Pub. L. 93–326, 88 Stat. 286 (42 U.S.C. 1762a), sec. 16, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304a, Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612c nt); sec. 311, Pub. L. 95–478, 92 Stat. 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 1561, Pub. L. 99–198, 99 Stat. 1589 (7 U.S.C. 612c); 5 U.S.C. 301, unless otherwise noted.

2. Section 250.8 is amended by redesignating the text of paragraph (a) as paragraph (a)(1) and adding a new paragraph (a)(2), to read as follows:

§ 250.8 Eligible recipient agencies.

(a) * * *

(2) Schools which do not participate in the National School Lunch Program or as commodity schools under Part 210 of this chapter or in the School Breakfast Program under Part 220 of this chapter may receive such commodities as the Secretary may designate, provided the schools (i) are public schools or private schools determined by the Internal Revenue Service to be exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954 or in the commonwealth of Puerto Rico, certified as nonprofit by the Governor; (ii) operate a nonprofit lunch service; and (iii) do not charge tuition in excess of the limit established for schools which participate in the National School Lunch and School Breakfast Programs. Such schools shall be eligible to receive only those commodities acquired under section 416 of the Agricultural Act of 1949 to the extent that such commodities become available and the Secretary has determined that surpluses of such commodities exist and surplus quantities are sufficient to distribute to nonprogram schools.

* * * * *

Dated: June 9, 1987.

S. Anna Kondratas,

Administrator.

[FR Doc. 87–13572 Filed 6–12–87; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS Number: 1024–87]

Nonimmigrant Classes; Requirements for Admission, Extension, and Maintenance of Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the documentary requirements for submission of an application for extension of stay by an alien temporarily in the United States. Current regulations require that an alien's passport be valid for at least six months beyond the date on which he or she intends to depart from the United States. Under the proposed rulemaking the alien would be required to certify at the time of application for extension that the passport is valid and that he or she will maintain the validity of the passport throughout his or her stay. The alien would no longer be required to establish that the passport is valid for six months beyond the anticipated departure date.

DATES: Written comments must be submitted on or before July 15, 1987.

ADDRESS: Please submit comments in duplicate to the Director, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Michael L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: Section 212(a)(26) of the Immigration and Nationality Act of 1952 ("the Act") requires that a nonimmigrant alien seeking admission to the United States be in possession of "a passport valid for a minimum period of six month from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period." By regulation, at 8 CFR 214.1(a), the Immigration and Naturalization Service ("the Service") requires that an alien filing an application for extension of nonimmigrant stay also be in possession of a passport valid for a minimum of six months from the expiration date of the contemplated stay, unless otherwise provided. The proposed rulemaking would change the requirement relating to applications for extension of stay so that the alien would be required to be in possession of a valid passport at the time of application and would also be required to maintain the validity of the passport throughout his or her stay in the United States. The statutory requirement relating to the validity of the passport at time of admission would remain unchanged.

Under the current regulations it is not unusual for an alien to be unable to comply with the passport validity requirement when applying for extension of stay because the alien's consulate is unable or unwilling to extend the validity of the document for a period covering the anticipated stay plus six months. For example, if an alien seeks a one-year extension of stay, his passport must now be valid for at least 18 months; however, his consulate may have a policy of not granting extensions of passport validity for more than 12 months. This results in the alien being granted extensions of nonimmigrant stay in increments of not more than six months each, thereby doubling the number of applications which must be filed by the alien and adjudicated by the Service. Although the current regulation may occasionally facilitate deportation of an alien who has violated his or her status in the United States (by eliminating the need of the Service to obtain an extension of the alien's passport in order to effect the removal), this advantage is minimal compared to the additional burdens now placed on the alien and the Service. The proposed rulemaking would therefore decrease inconvenience to the public, promote government efficiency, and create no significant adverse impact.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule would not, if promulgated, have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedures, Aliens, Employment, Foreign officials, Health professions, Labor unions, Reporting and recordkeeping requirements, Schools, Students, Travel restrictions.

Accordingly, Chapter I of Title 8 Code of Federal Regulations is amended as follows:

PART 214—[AMENDED]

1. The authority citation for Part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184.

2. In § 214.1, paragraph (a) is revised to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) *General.* Every nonimmigrant alien who applies for admission to, or an extension of stay in, the United States, shall establish that he or she is

admissible to the United States, or that any ground of inadmissibility has been waived under section 212(d)(3) of the Act. Upon application for admission, the alien shall present a valid passport and valid visa unless either or both documents have been waived. However, an alien applying for extension of stay shall present a passport only if requested to do so by the Service. The passport of an alien applying for admission shall be valid for a minimum of six months from the expiration date of the contemplated period of stay, unless otherwise provided in this chapter, and the alien shall agree to abide by the terms and conditions of his or her admission. The passport of an alien applying for extension of stay shall be valid at the time of application for extension, unless otherwise provided in this chapter, and the alien shall agree to maintain the validity of his or her passport and to abide by all the terms and conditions of his or her extension. The alien shall also agree to depart the United States at the expiration of his or her authorized period of admission or extension, or upon abandonment of his or her authorized nonimmigrant status. At the time a nonimmigrant alien applies for admission or extension of stay he or she shall post a bond on Form I-352 in the sum of not less than $500, to insure the maintenance of his or her nonimmigrant status and departure from the United States, if required to do so by the director, immigration judge, or Board of Immigration Appeals.

* * * * *

Dated: June 1, 1987.

William S. Slattery,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87-13519 Filed 6-12-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 68

[DoD Directive 1342.XX]

Provision of Free Public Education for Eligible Dependent Children

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule; correction.

SUMMARY: This amendment is to correct an administrative error printed in the **Federal Register** on Friday, May 22, 1987 (52 FR 19361). The Department of Defense will carefully consider all public comments submitted on 32 CFR Part 68 on or before July 15, 1987.

DATE: Comments must be received by July 15, 1987.

ADDRESS: Dependents Support Policy Directorate (FSE&S) (FM&P), Room 3C963, The Pentagon, Washington, DC 20301-4000.

FOR FURTHER INFORMATION CONTACT: Mr. Hector O. Nevarez, telephone (202) 697-0481.

List of Subjects in 32 CFR Part 68

Education, Dependents.

PART 68—[AMENDED]

Accordingly, 32 CFR Part 68 is amended as follows:

1. The authority citation for Part 68 continues to read as follows:

Authority: 20 U.S.C. 241

§ 68.8 [Amended]

2. In §68.8, change "June 22, 1987" to read "upon date of signature of DoD Directive 1342.XX"

June 9, 1987.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87-13562 Filed 6-12-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Cuyahoga Valley National Recreation Area; Off Road Vehicle and Snowmobile Use

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed regulation is necessary to designate the location within Cuyahoga Valley National Recreation Area where the use of off-road vehicles and snowmobiles may be permitted, and to increase the acceptable decibel level that off-road vehicles may emit within the off-road vehicle use area. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the recreation area in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road policy of the Department of the Interior.

DATE: Written comments, suggestions, or objections will be accepted until July 15, 1987.

ADDRESS: Comments should be directed to: Superintendent, Cuyahoga Valley NRA, 15610 Vaughn Road, Brecksville, Ohio 44141.

FOR FURTHER INFORMATION CONTACT: Robert P. Martin, Assistant Superintendent, Planning & Development, 15610 Vaughn Road, Brecksville, Ohio 44141, Telephone: (216) 526-5256.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued February 8, 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and in the case of units of the National Park System, not adversely affect scenic, natural, and aesthetic values.

In response to Executive Order 11644, the Secretary of the Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the order, and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, subsequently promulgated general regulations addressing off-road vehicle and snowmobile use within park areas. Among other provisions, these regulations require, where off-road vehicle or snowmobile use is authorized, that routes be designated by special regulation.

Furthermore, the General Management Plan for Cuyahoga Valley National Recreation Area. (July 1977) states on page 50, "Finally, a motorcycling/snowmobiling area will be established on a trial basis in a limited area on the western side of the valley between Interstate 271 and the Ohio Turnpike on a stable upland site."

This proposed special regulation is necessary to (1) designate the off-road vehicle use area and routes for snowmobile and motorcycle use within Cuyahoga Valley NRA, (2) regulate other visitor activities which may conflict with the off-road vehicle use area, and (3) increase the acceptable decibel level that motorcycles may emit when within the off-road vehicle use area.

The off-road vehicle use area is federally owned land, generally bound by Interstate 80, Interstate 271, and west from Riverview Road in Boston Township. The routes are delineated by markers at the off-road vehicle area.

To avoid potentially dangerous conflicting uses by visitors, the off-road vehicle use area is designated for snowmobile and motorcycle use only. This is to avoid a conflict between

motorcyclists and horseback riders, or snowshoers and snowmobilers.

General operation dates may be designated to avoid conflicts between motorcycle and snowmobile use. A period between each season may be designated as well to provide park staff enough time to prepare for the next season. The regulation also allows for designation of other conditions or restrictions in the future that may prove necessary for appropriate operation of the ORV area.

National Park Service general regulations (36 CFR 2.12) prohibit the operation of a motor vehicle, which includes motorcycles, that exceeds a noise level of 60 decibels measured on an A-weighted scale at 50 feet. The ambient noise level of the off-road vehicle use area presently exceeds this standard due to Interstate highway traffic noise and this standard would preclude the operation of most motorcycles. The Society of Automotive Engineers recommends use of 86 decibels at 50 feet, and this standard is adopted.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking.

Drafting Information

The primary authors of this rulemaking are Brian McHugh, Chief, Resource Management and Visitor Protection, Garree Williamson, Resource Management Specialist, and Gary A. Pace, North District Ranger, all of Cuyahoga Valley National Recreation Area.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This conclusion is based on the fact that off road vehicle use (snowmobiling and motorcycling) is a minor recreational use in the area and users will be primarily persons who presently own off-road vehicles. While the proposed rule may contribute in some small way to the local tourism, this additional recreational use will be minimal.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service prepared an environmental assessment for the General Management Plan for Cuyahoga Valley National Recreation Area which addressed the proposed off road vehicle use. Copies of these documents are available for review at the address noted at the beginning of this rulemaking.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); § 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. By adding a new paragraph (b) to § 7.17 to read as follows:

§ 7.17 Cuyahoga Valley National Recreation Area.

* * * * *

(b) *Snowmobiles and motorcycles.* (1) All Federally owned land located south of Interstate 271, north of Interstate 80, and west of Riverview Road is generally designated as an offroad vehicle (ORV) area, with specific routes for the operation of snowmobiles and motorcycles further designated by the posting of appropriate signs and markers. Operating a snowmobile or a motorcycle within the ORV area is prohibited except on a route designated for such use.

(2) The superintendent may establish conditions or restrictions, in accordance with the criteria and procedures of §§ 1.5 and 1.7 of this chapter, pertaining to the use of the ORV area, including, but not limited to, seasons and periods of time during which snowmobiles or motorcycles may be operated within the ORV area. Violating a condition or restriction established by the superintendent is prohibited.

(3) The superintendent may designate portions of the ORV area that are available for snowmobile or motorcycle use only and that are closed to other forms of public use. Violating a closure imposed by the superintendent is prohibited.

(4) Operating a motorcycle in the ORV area that exceeds a noise level of 86 decibels measured on the A-weighted scale measured at 50 feet (or an equivalent method, such as the Society of Automotive Engineers procedure for measuring 99 decibels at 20 inches) is prohibited.

Dated: May 6, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–13581 Filed 6–12–87; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF DEFENSE

48 CFR Part 225

Department of Defense Federal Acquisition Regulation Supplement; Foreign Acquisition; Extension of Comment Period

AGENCY: Department of Defense.

ACTION: Proposed rule; notice of extension of comment period.

SUMMARY: The Defense Acquisition Regulatory Council issued a proposed rule in the **Federal Register** on April 16, 1987 (52 FR 12440) to change DFARS 225.105(S–75), with a 60-day comment period to end June 15, 1987. The purpose of this document is to extend the comment period for an additional 60 days.

DATE: Comments on the proposed revisions should be submitted in writing to the Executive Secretary, DAR Council at the address shown below, on or before August 15, 1987, to be considered in the formulation of the final rule. Please cite DAR Case 86–144 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OUSD(A) Mill Room, Room 3D139, The Pentagon, Washington, DC 20301–3062.

Note.—If commenters choose to hand-carry comments to the DAR Council Office at 1211 South Fern Street, Arlington, VA, arrangements for hand-carried comments must be made with the DAR Council Staff Members. Security Guards at this location are not permitted to accept or sign for hand-delivered comments of any kind.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION: The DAR Council issued proposed changes to DFARS 225.105(S-75) to clarify that the 50% evaluation factor of the Balance of Payments Program shall not apply to any offer submitted in response to a solicitation for a civil works project, funded by civil works appropriations. Comments were to be submitted within 60 days, ending June 15, 1987. The DAR Council has determined that, because of the complexity of the issue, the comment period should be extended for an additional 60 days, ending August 15, 1987.

Owen L. Green III,

Acting Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 87-13569 Filed 6-12-87; 8:45 am]

BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 52, No. 114
Monday, June 15, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. OEE-3-86]

Bollinger GmbH et al.; Order Renewing Temporary Denial of Export Privileges

In the matter of: Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria; Leopold Hrobsky, Donaufelderstrasse 38, Stg. 4, Apt. 4, 1210 Vienna, Austria; Dietmar Ulrichshofer with addresses at Kirchenstrasse 1, 3061 Ollersbach, Austria; and c/o Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria and Vrablicz and Company, Steinergasse 11, 1170 Vienna, Austria, Respondents.

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368 through 399 (1986) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. sections 2401 through 2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement to renew an order temporarily denying all United States export privileges to Dietmar Ulrichshofer; Bollinger GmbH, which is owned by Dietmar Ulrichshofer; Leopold Hrobsky; and, Vrablicz and Company (hereinafter collectively referred to as respondents). Ulrichshofer, who is subject to an outstanding indictment in the U.S. District Court for the Central District of California for conspiracy to violate U.S. export controls and is a fugitive from U.S. justice, resides in Ollersbach, Austria; all of the other respondents reside in Vienna, Austria.[1]

The initial order was issued on August 12, 1986 (51 FR 29509, August 18, 1986) and renewed on October 11, 1986 (51 FR 37210, October 20, 1986), December 10, 1986 (51 FR 44655, December 11, 1986) February 8, 1987 (52 FR 4632, February 13, 1987) and April 9, 1987 (52 FR 12576, April 17, 1987).

In its renewal request dated May 19, 1987, the Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have conspired and acted in concert to violate the Act and the Regulations. The Department has reason to believe that the purpose of the conspiracy is to obtain U.S.-origin goods from third countries for ultimate destination in proscribed countries, without obtaining the required authorization from the Department for such shipments. The Department has reason to believe that respondents have participated in the unauthorized reexport of U.S.-origin commodities, including computer equipment and peripherals, from Austria to proscribed destinations, without authorization from the Department. Indeed, the Department previously provided a statement by the U.S. Customs Attache in Austria that his aspect of the investigation has revealed that respondent Vrablicz, on August 5, 1986, reexported such commodities to Czechoslovakia, which commodities were "owned" by respondent Bollinger. The Department further has shown that a statement given by the Customs Attache indicates that respondents currently have in their possession and control in Vienna, Austria, additional U.S.-origin equipment which requires authorization from the Department to permit its reexport from Austria. The Department has shown that there is a presumption of denial for any request seeking authorization to reexport this U.S.-origin equipment to proscribed destinations and states that, in any even, no such authorization has been requested. Nevertheless, the Department has reason to believe that respondents may attempt to reexport these U.S.-origin goods to proscribed destinations.

The Department states that the investigation gives it reason to believe that the violations under investigtion were deliberate and covert. The Department has shown that respondents Ulrichshofer and Hrobsky directed sales of commodities covered by the investigation to the Soviet Bloc. The Department has also shown that Ulrichshofer is involved with other parties in reexporting U.S. origin commodities from Austria to proscribed destinations without authorization from the Department. Further, since the respondents currently have possession and control of U.S.-origin goods subject to the Act and the Regulations, the Department states that violations are likely to occur again. The Department submits that renewal of the temporary denial order naming respondents is necessary for the purpose of giving notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Respondent Vrablicz submitted to the Deputy Assistant Secretary a letter dated May 27, 1987, contesting the Department's request for renewal of the order. This letter was received in a timely manner and a copy was provided to the Department. This submission argues that, despite statements by the Department to the contrary, Vrablicz has attempted to be responsive to the inquiries of the Customs Attache. Chief among the claims made by Vrablicz is that it did not "own" the goods in question and, indeed, could not have owned them since, in Austria, freight forwarders cannot own or dispose of the goods they forward. This claim was doubted by the Customs Attache apparently because of a statement by Vrablicz, in earlier correspondence, which suggested that another freight forwarder "not only owned, but was 'responsible' for" subsequent movements of the subject goods from Vienna.[2] In its May 27 submission, Vrablicz states that the receipt of goods by the other freight forwarder "does not mean anyway that [the company] has ever been the owner of the goods."

The question of ownership of and "responsibility" for the goods in question appears to be central to the

[1] Werner Bruchhausen, a co-defendant named in the indictment along with Ulrichshofer, was recently convicted and sentenced in May 1987 to a substantial term of imprisonment, by the U.S. District Court, Los Angeles, California in connection with some of the export control violation activities underlying the Ulrichshofer indictment.

[2] According to Customs Attache, Robert Urbansky as quoted from cable Vienna 6017, 10 April, 1987. Also, Government Exhibit #1.

Department's case against this respondent. At this stage, the investigation is obviously on-going, and the question of ownership remains unclear. I continue to join with the Department in finding reason to believe there is imminent threat of diversion based on the assumption that Vrablicz, as owner, re-directed the goods. This being the case, this order will be renewed with respect to Vrablicz. If Vrablicz were to make a direct showing to the Deputy Assistant Secretary that it did not own, or could not have owned, the subject goods, nor was it responsible for the disposition thereof, the question of imminent threat would have to be reassessed.

Respondent Hrobsky sent a letter, dated May 18, 1987 to the Administrative Law Judges (ALJ) of the Department of Commerce requesting the "repeal" of the order against him. The ALJ determined that this correspondence would not be treated as an appeal, and forwarded it to me for my consideration. I have three comments concerning this submission. First, this letter does not present opposition to renewal and, therefore, will not be considered as such. Second, the correspondence does not contain any explicit argument relating to the outstanding temporary denial order, but rather reports on communications between the respondent and the Customs Attache. Finally, Hrobsky has apparently attempted to be responsive to the questions posed by the Customs Attache in his April 2, 1987 letter. I cannot independently judge whether these responses are satisfactory. However, if it were the case that these responses are considered adequate by the Customs Attache, I would entertain a request by him to terminate this renewal with request to Hrobsky. If Hrobsky's replies are deficient, I would also expect the Customs Attache to so state and specifically explain before further claim of non-cooperation is relied on as a basis for any future TDO renewal request pertaining to this respondent.

No opposition was received from any other respondent. Therefore, based on the showing by the Department, I find that renewal of the order temporarily denying export privileges to respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Accordngly, it is hereby *Ordered*:

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officer, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing participation, either in the United States or abroad, shall include participating, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of on in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this order by filing with the Office of the Administrative Law Judges, U.S. Department of Commerce, Room H-6717, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective June 8, 1987, and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before an expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served upon each respondent and published in the **Federal Register**.

Dated: June 8, 1987.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 87-13553 Filed 6-12-87 8:45 am]

BILLING CODE 3510-25-M

[A-570-601]

Antidumping Duty Order; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In an investigation concerning tapered roller bearings from the People's Republic of China (PRC), the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that tapered roller bearings from the PRC are being sold at less than fair value and that imports of tapered roller bearings from the PRC are materially injuring a United States industry.

EFFECTIVE DATE: June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Mary S. Clapp, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 377–2613 or 377–1769, respectively.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are tapered roller bearings and parts thereof, currently classified in *Tariff Schedules of the United States* (TSUS) item numbers 680.30 and 680.39; flange, take up cartridge, and hanger units incorporating tapered roller bearings, currently classified in TSUS item 681.10; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not automotive use, currently classified in TSUS item number 692.32 or elsewhere in the TSUS.

On May 20, 1987, the Department made its final determination that this merchandise was being sold at less than fair value (52 FR 19748, May 27, 1987).

On June 5, 1987, in accordance with section 735(d) of the Tariff Act of 1930, as amended, (the Act) (19 U.S.C. 1673d(d)), the ITC notified the Department that such importations materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1563e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e (a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise subject to the order exceeds the United States price for all entries of such merchandise from the PRC. These antidumping duties will be assessed on all unliquidated entries of such merchandise entered, or withdrawn from warehouse, for consumption on or after February 6, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**. All entries or withdrawals of merchandise exported by the China National Machinery & Equipment Import & Export Corporation are excluded from this order.

On and after date of publication of this notice, United States Customs officers must require at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit to the estimated weighted-average antidumping duty margin as noted below:

Manufacturers/Producers/Exporters	Weighted-average percent
Premier Bearing and Equipment Ltd.	0.97
All Others (Except China National Machinery and Equipment Import and Export Corporation, which is excluded)	0.97

This determination constitutes an antidumping duty order with respect to tapered roller bearings from the PRC, pursuant to section 736 of the Act (19 U.S.C. 1673e) and 19 CFR 353.48. We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit Room B–099 of Import Administration for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and 19 CFR 353.48.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87–13613 Filed 6–12–87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Public Hearing on the Proposed Great Bay National Estuarine Research Reserve—Draft Environmental Impact Statement and Draft Management Plan

AGENCY: Division of Marine and Estuarine Management, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Public hearing notice.

SUMMARY: Notice is hereby given that the Division of Marine and Estuarine Management, of the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement and Draft Management Plan (DEIS/DMP) prepared on the proposed designation of the Great Bay National Estuarine Research Reserve.

The hearing will be held on Wednesday, July 1, 1987 at 7:00 pm at the University of New Hampshire, John S. Elliott Alumni Center, The 1925 Room, Durham, New Hampshire.

The views of interested persons and organizations on the adequacy of the DEIS/DMP are solicited, and may be expressed orally and/or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of five (5) minutes. The time allotment may be extended before the hearing when the number of speakers can be determined. All comments received at the hearing will be considered in the preparation of the Final Environmental Impact Statement and Draft Management Plan.

The comment period for the DEIS/DMP will end on Monday, July 13, 1987. All written comments received by this deadline will be included in the FEIS. Copies of the DEIS/DMP may be obtained from the Division of Marine and Estuarine Management, Office of Ocean and Coastal Resource Management, NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235 (Telephone: 202/673–5122).

Federal Domestic Assistance Catalog Number 11.420 Coastal Zone Management Estuarine Sanctuaries

Dated: June 9, 1987.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87–13537 Filed 6–12–87; 8:45 am]

BILLING CODE 3510-08-M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a

public meeting, June 24–25, 1987, at the Ramada Inn, 76 Industrial Highway, Essington, PA (Telephone: 215–521–9600), to discuss the Summer Flounder Fishery Management Plan; Title 50 of the Code of Federal Regulations, Part 601; domestic observer policy, and discuss other fishery management and administrative matters. The public meeting may be lengthened or shortened depending upon progress on agenda items. The Council also may convene a closed session (not open to the public) to discuss personnel and/or national security matters.

For further information, contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, 300 South New Street, Room 2115, Dover, DE 19901; Telephone: (302) 674–2331.

Dated: June 10, 1987.

Dr. Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87–13620 Filed 6–12–87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

June 10, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 16, 1987. For further information contact Kim Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Background

On December 3, 1986 a notice was published in the **Federal Register** (51 FR 43653) which announced that the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, and as extended by protocols on December 5, 1977, December 22, 1981 and July 31, 1986, had requested the Government of Bangladesh to enter into consultations concerning exports to the United States of man-made fiber sweaters in Category 645/646.

The United States has decided, inasmuch as recent consultations with the Government of Bangladesh did not result in a mutually satisfactory solution concerning this category, to control imports of man-made fiber textile products in Category 645/646, produced or manufactured in Bangladesh and exported during the twelve-month period which began on October 30, 1986 and extends through October 29, 1987.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 645/646, in excess of the designated restraint level.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Bangladesh, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 10, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 16, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of certain man-made fiber textile products in Category 645/646, produced or manufactured in Bangladesh and exported during the twelve-month period which began on October 30, 1986 and extends through October 29, 1987, in excess of 98,379 dozen.[1]

Textile products in Category 645/646 which have been exported to the United States prior to October 30, 1986 shall not be subject to this directive.

Textile products in Category 645/646 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Also effective on June 16, 1987, you are directed to charge the following amounts to the restraint limit established in this directive for Category 645/646. These charges are for the import period October 30, 1986 through March 31, 1987.

Category	Amount to be charged
645	13,188 dozen.
646	21,409 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–13612 Filed 6–12–87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Commitee Act, notice is

[1] The limit has not been adjusted to account for any imports exported after October 29, 1987.

hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 7, 1987; Tuesday, July 14, 1987; Tuesday, July 21, 1987; and Tuesday, July 28, 1987; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 9, 1987.

[FR Doc. 87–13561 Filed 6–12–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 8, 1987.

The USAF Scientific Advisory Board's AD Hoc Committees on Space-Based Radar and Air Base Performance will conduct meetings at the Naval Postgraduate School, Montery, CA during the period of July 6–17, 1987, from 8:00 a.m. to 5:00 p.m. each day.

The purpose of these meetings is to formulate reports on technology issues relevant to Air Force requirements for a space-based radar system and also requirements for enhancement of air base operability.

The meetings will involve discussions of classified defense matters listed in section 552(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87–13564 Filed 6–12–87; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Advisory Panel on ROTC Affairs; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following panel meeting:

Name of Panel: Army Advisory Panel on ROTC Affairs.

Date of Meeting: July 8 and 9, 1987.

Place: Fort Knox, Kentucky.

Time: 8 a.m.–5 p.m., July 8, 1987, 9 a.m.–11:45 a.m., July 9, 1987.

Proposed Agenda

The meeting will consist of briefings and discussions. The meeting is open to the public. Any interested person may appear before or file a statement with the Panel at the time, and in the manner, permitted by the Panel. It is projected that the following events will take place during the meeting. After opening remarks by Major General Robert E. Wagner and the chairman of the Panel, Dr. Harrison Wilson, any administrative matters requiring attention will be resolved. The meeting will then proceed with a variety of recent ROTC Cadet Command initiatives. Major General Wagner will provide an overview of the significant changes since the February 1987 meeting, at Shippensburg University, Shippensburg, Pennsylvania. In addition, Major General Wagner will update panel members on changes to cadet subsistence allowance and ROTC special duty assignment pay. Additional briefings on July 8 and July 9 will include: Expansion of the ROTC Mission Management System Deployment Plan, Scholarship Funding, Advertising Strategy, Precommissioning Literacy Standards, Marketing Operation Citizen Soldier, Spring Gold, Green to Gold Update, Camps Update, and Cadet Accident/Liability Coverage. On July 8, 1987, the Army Advisory Panel on ROTC Affairs will meet in general session to formulate recommendations, consider progress made on previous Panel recommendations and to select a date for the fall panel meeting.

For the Commander:

Robert S. Cox,

Colonel, General Staff Chief, Cadet Training Division.

[FR Doc. 87–13554 Filed 6–12–87; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Inland Waterways Users Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

NAME OF COMMITTE: Inland Waterways Users Board.

DATE OF MEETING: 15–17 July 1987.

PLACE: Quality Inn—Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC 20001.

TIME: 0900 to 1700, 15, 16, July 1987, 0900 to 1200, 17 July 1987 (as needed).

PROPOSED AGENDA

Wednesday, 15 July

0900 Registration
0930 Welcoming Remarks
1000 Oath of Office and Swearing In
1030 Orientation Sessions
1400 Organizational Session
1430 Report on Status of the Waterways System
1600 Identification of Goals and Objectives
1645 Public Comment Period

Thursday, 16 July

0900 Work Session
1400 Work Session continued, or Review Session
1645 Public Comment Period

Friday, 17 July

0900 Review Session (as needed) and Adjournment

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the comittee at the time and in the manner permitted by the committee.

SUPPLEMENTARY INFORMATION: This is the first meeting of the Inland Waterway, Users Board, a new advisory committee established pursuant to section 302 of Title III of Pub. L. 99-662. The Corps of Engineers, Department of the Army, is the committee sponsor. For further information contact Mr. William C. Holliday, Office of the Chief of Engineers, CECW-P, Washington, DC 20314-1000 at (202) 272-0146.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87-13555 Filed 6-12-87; 8:45 am]

BILLING CODE 3710-92-M

Marine Corps

Privacy Act of 1974; New Record Systems

AGENCY: Marine Corps, DOD.

ACTION: Notice of two new systems of records subject to the Privacy Act for public comment.

SUMMARY: The U.S. Marine Corps is adding two new record systems to its existing inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: This proposed action will be effective without further notice July 15, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Ms. Barbara Thompson, Privacy Act Coordinator, HQ USMC (MC-MPI-60) Arlington Annex, Arlington, VA 20380-0001, telephone: 202-694-1452, autovon: 224-1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22674) May 29, 1985 (compilation)
FR Doc. 85-22610 (50 FR 35548) October 6, 1986
FR Doc. 86-28837 (51 FR 45932) December 23, 1986

New system reports, as required by 5 U.S.C. 552(a) of the Privacy Act were submitted on May 13, 1987, pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

June 9, 1987.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

MMN00050

SYSTEM NAME:

Drill Instructor Evaluation Files System.

SYSTEM LOCATION:

Marine Corps Recruit Depot, Parris Island, South Carolina 29905-5001 and Marine Corps Recruit Depot, San Diego, CA 92140-5001

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Marine Corps personnel assigned to the drill instructor military occupational specialty.

CATEGORIES OF RECORDS IN THE SYSTEM:

All data required in the processing and training of drill instructors and execution of drill instructor duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S. Code 5031; E.O. 9397

PURPOSE(S):

To provide a record of training and quality of performance of Marine Corps personnel assigned as drill instructors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Marine Corps compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The files are stored in file folders.

RETRIEVABILITY:

Records retrieved by name or last four digits of social security number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel only during normal working hours. After normal working hours, rooms are locked and the area is patrolled by military police.

RETENTION AND DISPOSAL:

The files are stored for two years after completion of drill instructor duties and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer, Recruit Training Regiment, Marine Corps Recruit Depot, Parris Island, SC 29905-5001 and Commanding Officer, Recruit Training Regiment, Marine Corps Recruit Depot, San Diego, CA 92140-5001

NOTIFICATION PROCEDURE:

Information may be obtained from the system manager. Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

The agency's rules for access to record may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from instructors, units and civilians that were involved with training, evaluating and processing drill instructors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

MMN00051

SYSTEM NAME:

Individual Recruiter Training Record.

SYSTEM LOCATION:

Files are located at individual Recruiting Stations and Substations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

File contains training and performance information on recruiters.

CATEGORIES OF RECORDS IN THE SYSTEM:

All information pertaining to the training and performance of recruiters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S. Code 5031; E.O. 9397.

PURPOSE(S):

To provide a record of the performance of Marine Corps recruiters from the initial training phase through completion of recruiting duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

The Blanket Routine Uses that appear at the beginning of the Marine Corps compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The files are stored in file folders.

RETRIEVABILITY:

Records retrieved by name or last four digits of the service member's social security number.

SAFEGUARDS:

Records are accessible only to authorized personnel during normal working hours. After normal working hours, files are stored in locked offices.

RETENTION AND DISPOSAL:

The files are maintained two years after completion of recruiting duties, at which time they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding General, Marine Corps Recruit Depot/Eastern Recruiting Region, Parris Island, SC 29905–5001 and Commanding General, Marine Corps Recruit Depot/Western Recruiting Region, San Diego, CA 91240–5001.

NOTIFICATION PROCEDURE:

Information may be obtained from the system manager. Requesting individuals should specify their full name. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written request must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

The agency's rules for access to record may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from formal military schools, units and commanding officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 87–13559 Filed 6–12–87; 8:45 am]
BILLING CODE 3810–01–M

Department of the Navy

Privacy Act of 1974; New Record System

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a new system of records and deletion of system of records subject to the Privacy Act.

SUMMARY: The Department of the Navy is adding a new record system to its existing inventory of record systems and deleting one subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: This proposed action will be effective without further notice July 15, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000, telephone: 202–697–1459, autovon: 227–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc. 86–8485 (51 FR 12908) April 16, 1986
FR Doc. 86–10763 (51 FR 18086) May 16, 1986 (Compilation)
FR Doc. 86–12448 (51 FR 19884) June 3, 1986
FR Doc. 86–19207 (51 FR 30377) August 26, 1986
FR Doc. 86–19208 (51 FR 30393) August 26, 1986
FR Doc. 86–28835 (51 FR 45931) December 23, 1986
FR Doc. 87–1144 (51 FR 2147) January 20, 1987
FR Doc. 87–1145 (52 FR 2149) January 20, 1987
FR Doc. 87–5783 (52 FR 8500) March 18, 1987

A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on May 13, 1987, pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 9, 1987.

Deletion of System Notice

N05520–3

SYSTEM NAME:

Civilian Personnel Security Files (51 FR 18157) May 16, 1986.

Reason: This system has been incorporated into N05520–5, "Navy Joint Adjudication and Clearance System (NJACS)"

SYSTEM NAME:

Navy Joint Adjudication and Clearance System (NJACS).

SYSTEM LOCATION:

Primary—

a. System Control—Department of the Navy Central Adjudication Facility, 8621 Georgia Avenue, Silver Spring, MD 20910.

b. System Computer Facility—Defense Investigative Service, Personnel Investigations Center, P.O. Box 1211, Baltimore, MD 21203.

Decentralized Segments—

a. Department of the Navy, Headquarters, Naval Security Group Command, 3801 Nebraska Avenue, NW., Washington, DC 20390.

b. Department of the Navy, Headquarters, Naval Intelligence Command (NIC–04), Room 282, NIC Building, 4600 Silver Hill Road, Suitland, MD 20389.

c. Department of the Navy, Headquarters, Naval Security and Investigative Command (NSIC–284), 4600 Silver Hill Road, Suitland, MD 20389.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of the Navy (DON) military personnel and civilian employees and certain "affiliated employees" whose duties require a DON security clearance or security eligibility determination. "Affiliated employees" include, but are not limited to, the following categories of persons in positions of trust: contractors, consultants, non-appropriated fund employees, Red Cross volunteers and staff, USO personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records that include an individual's name, social security number, other personal information and identification code (UIC) of the subject's unit. Other data elements track the individual's status in the security investigation and clearance adjudication process and record the final determination. Data files will also include duty-assignment designations such as cryptographic information access or participation in the Personnel Reliability Program. The system will also include correspondence regarding the subject and/or reflecting the adjudication decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7311; 10 U.S.C. 5031; Executive Order 10450 (as amended); and Executive Order 9397.

PURPOSE(S):

To provide a comprehensive system to manage information required to adjudicate the eligibility of Department of the Navy (DON) military, civilian and certain affiliated employees for security clearances and to provide a record of those adjudications.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compiliation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Authomated records are stored on magnetic tapes, disks and drums. Paper records, microfiche, printed reports and other related documents supporting the system are filed in cabinets and stored in "controlled access areas" only.

RETRIEVABILITY:

By SSN, employee name, date of brith, and place of birth.

SAFEGUARDS:

Controls have been established to restrict computer output only to authorized users at all system locations. Specific procedures are also in force for the disposal of computer output. Computer files are kept in secure, continuously manned areas and are accessible only to authorized computer operators, programmers, and adjudicators who are directed to respond to valid, official requests for information. This access is controlled and monitored by the security system.

RETENTION AND DISPOSAL:

The system will maintain NJACS records on persons so long as they continue to be employed by or affiliated with the DON. Records will be purged one year after an individual terminates DON employment or affiliation. Other forms of information (e.g., nonautomated records) will be maintained in accordance with DON record retention requirements. All system information is disposed of via authorized methods for sensitive or personal information, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Department of the Navy Central Adjudication Facility, Naval Security and Investigative Command (NSIC) (Code 29), 8621 Georgia Avenue, Silver Spring, MD 20910.

NOTIFICATION PROCEDURE:

Information on NJACS may be obtained from the System Manager indentified above. Individuals requesting personal records must provide a notarized statement and full identifying data and mark the letter and envelope containing the request "Privacy Act Request." Proposed amendments to the information must be directed to the agency which conducted the investigation.

RECORD ACCESS PROCEDURE:

Make all requests for access in writing and clearly mark the letter and envelope "Privacy Act Request." Clearly indicate name of the requester, nature of the record sought, approximate date of the record, and provide the required verification of identity or notarized consent for release to a third party.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager. Direct all request to contest information to the system manager identified above. State clearly and concisely what information is being contested and the reasons for contesting it. Clearly mark the letter and the envelope containing the contest "Privacy Act Request." Proposed amendments to information sought must be directed to the agency which conducted the investigation.

RECORD SOURCE CATEGORIES:

Information in this system comes from the cognizant security manager or other official sponsoring the security clearance/determination for the subject and from information provided by other sources, e.g., pesonnel security investigations, personal financial records, military service records and the subject.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 87-13560 Filed 6-12-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP84-107-002 and RP86-106-006]

Arkla Energy Resources, a Division of Arkla, Inc.; Filing

June 8, 1987.

Take notice that on June 1, 1987, Arkla Energy Resources, a division of Arkla, Inc. (AER), tendered for filing certain tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 1-A. AER has filed these revised sheets in accordance with Article VIII of its Stipulation and Agreement (S&A) in Docket No. RP84-107-000, which was approved by the Commission on January 29, 1985. Article VIII of AER's S&A states that AER will revise its settlement rates to reflect any new corporate Federal income tax rate that becomes effective while the S&A is in effect.

The Tax Reform Act of 1986, enacted by Congress on October 22, 1986, provides for a decrease in the Federal income tax rate for corporations, effective July 1, 1987. AER's revised sheets reflect a reduction in the component of AER's settlement cost of service attributable to its Federal income tax expense. No other changes in cost of service are reflected on the tariff sheets.

AER's tariff sheets also revise the proposed settlement rates for open access transportation contained in the stipulation and agreement in Docket No. RP86-106-000, which is presently pending before the Commission. Though the proposed stipulation and agreement in RP86-106-000 does not require AER to track this change in tax rates, the proposed settlement rates are based on the RP84-107-000 settlement cost of service.

AER requests any waiver of the Commission's regulations necessary to allow the reduced settlement rates to become effective as of July 1, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or

before June 15, 1987. Protests will be considered by the Commission in determining the approriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13528 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES87-30-000 et al.]

Electric Rate and Corporate Regulation Filings; Centel Corp. et al.

June 8, 1987.

Take notice that the following filings have been made with the Commission:

1. Centel Corp.

[Docket No. ES87-30-000]

Take notice that on May 29, 1987, Centel Corporation filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to $150,000,000 aggregate principal amount of unsecured notes or debentures.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Black Hills Corp. dba Black Hills Power and Light Co.

[Docket No. ER87-466-000]

Take notice that Black Hills Corporation, doing business as Black Hills Power and Light Company (Black Hills) on May 2, 1987, tendered for filing an agreement between Black Hills and the City of Gillette, Wyoming which provides for an amendment of Black Hills' Rate Schedule FERC No. 28 and its Supplement No. 1 to provide for additional sales of seasonal non-firm power and energy.

The reasons for the proposed rate schedule changes are to expand to scope of the Agreement, recognize market forces, and provide benefits to Gillette and Black Hills.

Copies of the filing were supplied to the City of Gillette, Wyoming and the regulatory commissions of the states of Wyoming, South Dakota, and Montana.

Comment date: June 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Central Vermont Public Service Corp.

[Docket No. ER85-775-000]

Take notice that on May 29, 1987, Central Vermont Public Service Corporation (Central Vermont) tendered for filing the 1986 Cost Report based on actual costs as required under Article 2.4 on First Revised Sheet No. 18 of FERC Electric Tariff, Original Volume No. 3. Central Vermont states that it provides transmission and distribution service to the following customers:

Vermont Electric Cooperative, Inc.
Lyndonville Electric Department
Village of Ludlow Electric Light Department
Village of Johnson Water and Light Department
Village of Hyde Park Water and Light Department
Allied Power and Light Company
Rochester Electric Light and Power Company

Central Vermont states that Tariff No. 3, in its original form, was filed with the Commission on September 19, 1985, in Docket No. ER85-775-000. The tariff was allowed to become effective, subject to refund, on November 20, 1985. Thereafter, the tariff was modified and the refund contingency was eliminated (except to the extent set forth in the tariff itself) by a settlement agreement which the Commission approved by order dated February 28, 1986. The settlement agreement provided for a return on equity of 13.96% through April 30, 1986 (Phase A) and 15.90% effective May 1, 1986 (Phase B).

Copies of this filing have been served upon the customers under the tariff and the Vermont Public Service Board.

Comment date: June 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Consumers Power Co.

[Docket No. ER87-343-000]

Take notice that on May 22, 1987, Consumers Power Company tendered for filing a Letter Agreement dated April 24, 1987, between Consumers Power Company and Commonwealth Edison Company. This Letter Agreement supersedes the December 23, 1986 letter Agreement between the parties that was previously filed in the above docket. The new Letter Agreement was executed to set an appropriate fixed charge factor for 1988 as a result of the Tax Reform Act of 1986.

Consumers Power Company states that Exhibit A of the Letter Agreement illustrates the effects of the Tax Reform Act on the previously agreed upon 1986 fixed charge factor. For 1987, the factor will be 13.537% (as previously filed). For 1988, the factor will drop an additional 1.045% to 12.492%. As stated in the original filing, the redetermined fixed charge factor is unrelated to a fixed charge rate that Consumers Power Company might use for other purposes and is subject to further redetermination pursuant to Section 4.2 of the June 1, 1971 "Agreement for Sale of Portion of Generating Capability of Ludington Pumped Storage Plant", as amended.

Copies of this filing have been served upon the parties to the Letter Agreement and the Michigan Public Service Commission.

Comment date: June 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Iowa-Illinois Gas and Electric

[Docket No. ER87-465-000]

Take notice that Iowa-Illinois Gas and Electric Company (Iowa-Illinois) on June 2, 1987, tendered for filing a First Amendment to Facilities Schedule No. 2, dated June 15, 1984, of Service Schedule C to the Interconnection Agreement, dated June 15, 1984, between Iowa-Illinois and Iowa Electric Light and Power Company (Iowa Electric), proposed to become effective December 17, 1985, the latest in-service date of the facilities which are the subject of the First Amendment.

Iowa-Illinois states that the First Amendment adopts First Revised Exhibit A; C.2 and First Revised Exhibit B; C.2 to Facilities Schedule No. 2. These first Revised Exhibits identify the facilities added at Iowa-Illinois' Hills Substation to facilitate automatic load removal and Iowa Electric's transformer connection and also establish a fixed charge rate for the same, all as contemplated by §§ 4.01 and 5.01 of the Facilities Schedule No. 2.

Iowa-Illinois states that a copy of the First Amendment has been mailed to Iowa Electric, to the Iowa Utilities Board, and to the Illinois Commerce Commission.

Comment date: June 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Sierra Pacific Power Co.

[Docket No. ER87-467-000]

Take notice that Sierra Pacific Power Company on June 2, 1987, tendered for filing proposed FERC electric service tariff charges pursuant to the Western Systems Power Pool (WSPP) Experimental Rates as already approved by this Commission in its order issued March 12, 1987, in Docket No. ER87-97-001. Sierra Pacific Power Company has recently been approved by the WSPP Executive Committee for membership in the WSPP.

Sierra Pacific Power Company's membership in the WSPP will increase the efficiency of Sierra Pacific Power Company's interconnected power system operations, which is being accomplished with existing agreements. Existing parties to the WSPP agree with this type of power pool on a trial basis

to the extent of pre-scheduled coordinated transactions, such as economy energy transactions, unit commitment service, firm system capacity/energy sales or exchanges, and transmission service. The initial operations of the WSPP began on May 1, 1987, and the WSPP agreement on file with this Commission sets forth the terms and conditions to implement the power pooling services.

Copies of this filing were served upon the Public Utilities jurisdictional regulatory agancies.

Comment date: June 22, 1987, in accordance with Standard Paragrph E at the end of this document.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13524 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF87-433-000 et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Bechtel Development Co. et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Bechtel Development Co.

[Docket No. QF87-433-000]

June 8, 1987

On May 22, 1987, Bechtel Development Company (Applicant), of 50 Beale Street, San Francisco, California, 94119 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located at the E.I. duPont de Nemours & Company, Inc. plant in Carneys Point, New Jersey. The facility will consist of two coal-fired circulating fluidized bed boilers, and one extraction/condensing steam turbine generator. Steam recovered from the facility will be used at the DuPont's Chambers Works chemical plant in chemical process applications. The maximum net electric power production capacity of the facility will be 152 MW. The primary source of energy will be bituminous coal. The installation of the facility is expected to commence on or about the second quarter of 1988.

2. American REF-FUEL Co. of Southeastern Connecticut

[Docket No. QF87-447-000]

June 8, 1987.

On May 28, 1987, American REF-FUEL Company of Southeastern Connecticut (Applicant), of P.O. Box 3151, Houston, Texas 77253 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Preston, Connecticut. The facility will consist of two (2) water-wall steam generators and one (1) turbine generator. The net electric power production capacity will be 13.85 megawatts. The primary energy source will be biomass in the form of municipal solid waste. Natural gas and oil will be used for ignition, start-up, testing, flame stabilization, and temperature control. However, such fossil fuel uses will not in aggregate exceed approximately 9% of the total energy input of the facility during any calendar year period. Construction of the facility will begin in November 1987.

3. Lancaster County Solid Waste Management Authority

[Docket No. QF87-434-000]

June 4, 1987.

On May 22, 1987, Lancaster County Solid Waste Management Authority (Applicant), of 1291 Old Harrisburg Pike, P.O. Box 4742, Lancaster, Pennsylvania 17604 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Lancaster County, Pennsylvania. The facility will consist of multiple waterwall combustion steam generating units, and a single steam turbine generator. The net electric power production capacity will be approximately 28 megawatts. The primary energy source will be biomass in the form of municipal solid waste. Oil or natural gas will be used for start-up, and flame stabilization. Such fossil fuel uses, however, will not exceed 25% of the total energy input to the facility during any calendar year period. Construction of the facility is expected to begin on January 1, 1991.

4. Triton Power Co.

[Docket No. QF87-439-000]

June 8, 1987.

On May 27, 1987, Triton Power Company (Applicant), of 125 Wolf Road, Albany, New York 12205, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 1750 kilowatt hydroelectric facility (FERC P. 5698) will be located on the Chateaugay River in Franklin County, New York.

A separate electric application is required for a hydroelectric project lincense, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

5. Union Oil Co. of California

[Docket No. QF87-423-000]

June 8, 1987.

On May 26, 1987, Union Oil Company of California (Applicant), of 1660 West Anaheim street, Wilmington, California 90744, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Applicant's Los Angeles refinery in Wilmington, California 90744. The facility will consist

of a combustion turbine generator and a heat recovery steam generator equipped with duct burner for supplementary firing. Thermal energy recovered from the facility will be used by processing units within the refinery. The primary energy source will be natural gas and refinery gas. The net electric power production capacity of the facility will be 42.1 MW. Installation of the facility is scheduled to begin in August 1987.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13523 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-43-003]

MIGC, Inc.; Tariff Filing

June 8, 1987.

Take notice that on June 1, 1987, MIGC, Inc. (MIGC) tendered for filing Forty-Third Revised Sheet No. 32 to its FERC Gas Tariff, Original Volume No. 1. MIGC states that the sole purpose of this tariff filing is to comply with the requirements of Ordering Paragraphs (B) and (C) of the March 31, 1987 suspension order issued in this proceeding. MIGC further states that it has filed a request for rehearing of the requirements of Ordering Paragraph (C) of the March 31, 1987 order which is presently pending before the Commission, and that submission of the instant tariff filing is without prejudice to the position taken by MIGC on rehearing.

MIGC also states that, in view of the five-month suspension imposed by the March 31, 1987 order, the tariff filing bears an effective date of September 1, 1987.

MIGC has served copies of this filing on its jurisdictional customers, interested state commission and the official service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 15, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenenth F. Plumb,

Secretary.

[FR Doc. 87-13529 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-38-000]

Morsey Oil and Gas Corp.; Petition for Adjustment

June 8, 1987.

Take notice that on March 2, 1987, Morsey Oil and Gas Corporation (Morsey) filed with the Commission a petition for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 and Part 385 (Subpart K) of the Commission's regulations. Morsey seeks waiver of its obligation under Commission Order Nos. 399, 399-A, and 399-B requiring payment of Btu adjustment refunds by first sellers of natural gas.

Morsey states the following in support of the petition for relief. It is a small operating company which owned no working interest in the Milton Lease, Alice, Texas. Sales from the one shallow gas well on this property were made to Valero Transmission Company. The well was plugged years ago. The partnership which owned a 75% working interest no longer exists; and, the 25% royalty owners are both dead. Further, Morsey states payment of the refund obligation attributable to these interests ($1,510.87) will cause the company financial hardship because it has no funds for repayment.

The procedures applicable to the conduct of this waiver proceeding are found in Subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Rules 214 and 1106 of the Commission's rules of practice and procedure. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13527 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP87-35-000]

Pennsylvania Department of Environmental Resources et al.; Notice of Petition To Reopen Final Well Category Determinations

June 8, 1987.

In the matter of: Pennsylvania Department of Environmental Resources, Section 102(c) NGPA Determination; John Baker WN 1846, FERC J.D. No. 81-45229; Alden Bech WN 1843, FERC J.D. No. 81-45231; A&O Stewart WN 1859, FERC J.D. No. 82-15636; James C. Brothers WN 1856, FERC J.D. No. 82-36472; Luke Brown WN 1868, FERC J.D. No. 82-36473; William B. Ross #1 WN 1916, FERC J.D. No. 83-17564; William D. Wilson WN 1989, FERC J.D. No. 83-36634.

On February 17, 1987, consolidated Gas Transmission Corporation (Consolidated) filed with the Commission, pursuant to § 275.205 of the Commission's regulations [1] a petition to reopen and vacate final well category determinations for the above-captioned wells, located in Cambria and Clearfield Counties, Pennsylvania. Consolidated requests the Commission to reopen the well category determination proceedings for the wells, vacate their section 102(c) determinations, and allow Consolidated to withdraw its applications.

Consolidated states that by letter dated December 30, 1986, Consolidated was notified by the Commission's Division of Producer Audits and Pricing that seven wells, jointly owned by consolidated and Fairman Drilling Company, may have improper well category determinations. According to Consolidated, several years ago these seven wells were qualified as new onshore wells under section 102(c)(1)(B)(i) of the Natural gas Policy Act of 1978 (NGPA). Consolidated states that review of certain records revealed the existence of marker wells located within 2.5 miles of each of the captioned wells, thus disqualifying the wells from section 102(c) status.[2] Consolidated

[1] 18 CFR 275.205 (1986).

[2] Section 102(c)(1)(B)(i) of the NGPA requires that new wells must be 2.5 miles or more from the nearest marker well to qualify as a new onshore well.

asserts that at the time the section 102(c) determination were filed it was unaware of these marker wells.

Consolidated claims that the seven captioned wells were drilled into designated tight formations, and that six of the wells have already received determinations as tight formation wells under section 107(c)(5) of the NGPA. These six tight formation wells are the John Baker, Alden Bech, A&O Stewart, James C. Brothers, Luke Brown, and the William B. Ross #1 wells. Consolidated requests the Commission, with respect to the six above-named wells, to reopen the well category proceedings, to vacate their section 102(c) determinations, and to permit Consoidated to withdraw its applications. Consolidated asserts that no refunds will be due because the section 102 price is lower than the section 107(c)(5) price. Consolidated states it has filed for a determination that the remaining well, the William D. Wilson well, also qualifies as a section 107(c)(5) well. Consolidated requests that this current request for reopening be held in abeyance until Consolidated receives a final section 107(c)(5) determination for the William D. Wilson well.

Any person desiring to be heard or to make any protest to the requested reopening should file a motion to intervene or protest with the Federal Energy regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Comission's rules of Practice and Procedure. All such motions or protests should be filed within 30 days after publication of this notice in the **Federal Register.** All protests filed will be considered, but will not serve to make the protestants parties to the proceeding, any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13525 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-45-000]

Silver Creek Oil & Gas, Inc.; Petition for Adjustment

June 8, 1987.

Take notice that on April 29, 1987, Silver Creek Oil & Gas, Inc. (Silver Creek) filed with the Commission a petition for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 and Part 385 (Subpart K) of the Commission's regulations. Silver Creek seeks waiver of its obligation under Commission Order Nos. 399, 399-A, and 399-B requiring payment of Btu adjustment refunds by first sellers of natural gas.

Silver Creek states that the property in question has been out of production for some time and there have been numerous changes in ownership. Some of the owners are dead or cannot be located, many of the individuals owe Silver Creek (the operator) monies for unreimbursed operations. Further, Silver Creek states that contract problems with Northwest Central may make it impossible to make refunds. Silver Creek claims that payment of the refund obligation would represent a special hardship.

The procedures applicable to the conduct of this waiver proceeding are found in Subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Rules 214 and 1106 of the Commission's rules of practice and procedure. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13526 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-73-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 8, 1987.

Take notice that on June 2, 1987, Algonquin Gas Transmission Company (Algonquin) tendered for filing certain tariff sheets to be a part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2. The tariff sheets set forth the rates, terms and conditions under which Algonquin has elected, commencing June 2, 1987, to render firm and interruptible self-implementing transportation pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) on an "open access" basis as required by Order No. 436, *et al.*

Algonquin requests the Commission to waive all necessary rules and regulations to permit these tariff sheets to become effective June 2, 1987. Copies of the filing were served on Algonquin's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 15, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13530 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-3-32-000]

Colorado Interstate Gas Co.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

June 8, 1987.

Take notice that on June 3, 1987, Colorado Interstate Gas Company (CIG) tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would decrease the commodity rates under CIG's jurisdictional rate schedules by 4.8 mills per Mcf, reflecting an annual decrease in jurisdictional purchased gas costs of $615,979.

CIG states that the filing is made pursuant to subsection 21.22 of CIG's FERC Gas Tariff, Original Volume No. 1, so as to enable CIG to flow through to its jurisdictional customers a decrease in its purchased gas costs resulting from a proposed rate reduction by Western Transmission Corporation (Western) in Docket No. TA87-2-57.

CIG requests that the instant filing be made effective on June 1, 1987, coincident with the effective date for Western's proposed rate change.

CIG states that copies of the filing have been served upon CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 15, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13531 Filed 6-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-523-002]

Iroquois Gas Transmission System; Amendment

June 5, 1987.

Take notice that on May 28, 1987, Iroquois Gas Transmission System (Iroquois), Two Enterprise Drive, Shelton, Connecticut 06484, filed in Docket No. CP86-523-002 an amendment to its pending application filed in Docket No. CP86-523-000 pursuant to section 7 of the Natural Gas Act and Subpart E of Part 157 of the Commission's Regulations for an optional certificate of public convenience and necessity, so as to reflect the withdrawal of one shipper, the addition of a new shipper, the reallocation of nominated volumes, and the adoption of a formerly-proposed alternative as the new proposed route, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Iroquois states that the amendment (referred to as the "Second Amendment") is occasioned by the withdrawal of one shipper from the Iroquois system, South Jersey Gas Company (South Jersey), and by the reallocation of South Jersey's nominations to two previously identified shippers, New Jersey Natural Gas Company (New Jersey Natural) and Long Island Lighting Company (LILCO), and to a new shipper on the Iroquois system, Central Hudson Gas & Electric Corporation (Central Hudson). Iroquois states that New Jersey Natural's nomination would increase from 35,000 Mcf per day to 40,000 Mcf per day, LILCO's nomination would increase from 25,000 Mcf per day to 35,000 Mcf per day, and Central Hudson's nomination would be 10,000 Mcf per day.

Iroquois asserts that its ability to provide firm reserved service to Central Hudson would be dramatically simplified by construction of the Southeastern New York Alternative (Alternative 7) routing for the Iroquois pipeline. It is stated that, in order to facilitate service to Central Hudson and because Iroquois now believes that there are environmental benefits to construction of this alternative routing, Iroquois designates Alternative 7/7A as its proposed and preferred route.[1] The alternative routes were described in the Environmental Report filed by Iroquois.

Iroquois requests authority to establish a delivery point for Central Hudson at milepost (MP) 259.2, on Alternative 7/7A, in Pleasant Valley, New York. Iroquois states that transportation from that point of interconnection to Central Hudson's distribution system would be via facilities owned or to be constructed and owned by Central Hudson.

Iroquois thus requests authority to establish the following delivery points (to reflect the designation of Alternative 7/7A as the proposed route):

Company		Points of interconnection
St. Lawrence Gas Co.	MP 7.8	Lisbon,NY.
Consolidated Gas Supply.	MP 158.0	Canajoharie, NY.
Tennessee Gas Pipeline Co.	MP 181.0	Wright, NY.
	MP 317.8	Stratford, CT.
Central Hudson Gas & Electric Co.	MP 259.2	Pleasant Valley, NY.
Algonquin Gas Transmission Co.	MP 298.0	Newtown, CT.
The Connecticut Light and Power Co.	MP 277.0 +41.6 mi.	8(New Milford, CT) Farmington, CT.
	MP 305.9	Newtown, CT.
	MP 313.6	Huntington, CT.
Connecticut Natural Gas Corp.	MP 277.0 +41.6 mi.	(New Milford, CT) Farmington, CT.
Southern Connecticut Gas Co.	MP 319.4	Stratford, CT. (Chapel St.) Milford, CT.
	MP 320.9	Milford, CT.
Long Island Lighting Co.	MP 357.2	South Commack, NY.

It is stated that the costs of Alternative 7 were reflected in exhibit K to the First Amendment, filed January 30, 1987. Iroquois further states that the additional costs associated with the slightly longer line reflected in the routing of Alternative 7A and associated with the construction of a new metering facility for Central Hudson (capable of handling 80,000 Mcf per day, thus rendering feasible purchases of additional summer volumes by Central Hudson from Alberta Northeast Gas, Limited (ANE) [2] are relatively small (less than one percent of total project costs) and adequately provided for by existing contingencies. Iroquois concludes that these additional costs do not necessitate any rate or cost revision.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 22, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13611 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9825-000]

City of Ogdensburg, NY; Acceptance of Withdrawl of Competing Application for License

June 8, 1987.

On March 12, 1987, the City of Ogdensburg, New York, (Odgensburg) filed a motion for leave to withdraw its application for a license for the Ogdensburg Project No. 9825 to be located at the existing Ogdensburg Dam on the Oswegatchie River, in the City of Ogdensburg. On March 26, 1987, Adirondack Hydro Development Corporation (Adirondack) filed a timely motion in opposition to the withdrawal.

On May 13, 1987, Adirondack filed a motion withdrawing its March 26 filing. Pursuant to Rule 216 of the Commission's Rules of Practice and Procedure, 18 CFR 385.216 (1986), Adirondack's withdrawal of its opposition became effective automatically at the end of May 28, 1987, since no one filed a motion in opposition

[1] Alternative 7 is an 87.1-mile alternative to a 76.3-mile portion of the Iroquois mainline route and would be located in eastern New York and northeastern Connecticut. Alternative 7A would replace approximately 7.4 miles of Alternative 7 with a 9.9-mile section that would avoid residential areas at or near Brookfield, Connecticut by traversing through industrial areas and by aligning the route, as much as possible, adjacent to existing rights or way. The designation "Alternatie 7/7A" shall be used to reflect this new, preferred alternative route of approximately 89.6 miles in length.

[2] South Jersey has reallocated its purchases of Canadian gas from ANE to New Jersey Natural, LILCO, and Central Hudson, consistent with its reallocation of nominations for firm reserved transportation service on Iroquois' system.

and the Commission took no action to disallow the withdrawal.

Since Adirondack has withdrawn its opposition, Ogdensburg's request to withdraw its license application is unopposed. Accordingly, notice is hereby given that the request for withdrawal of the application for license by the City of Ogdensburg, New York, Filed on March 12, 1987, is effective at the end of May 28, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13610 Filed 6-12-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51679; FRL-3218-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of forty such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 87-1178—August 19, 1987.

P 87-1179, 87-1180, 87-1181, 87-1182, 87-1183, 87-1184, 87-1185, 87-1186, 87-1187, and 87-1188—August 26, 1987.

P 87-1189, 87-1190, 87-1191, 87-1192, 87-1193, 87-1194, 87-1195, 87-1196, and 87-1197—August 29, 1987.

P 87-1198, 87-1199, 87-1200, 87-1201, and 87-1202—August 30, 1987.

P 87-1203, 87-1204, 87-1205, 87-1206, 87-1207, 87-1208, 87-1209, 87-1210, 87-1211, 87-1212, and 87-1213—August 31, 1987.

P 87-1214, 87-1215, 87-1216, and 87-1217, September 1, 1987.

Written comments by:

P 87-1178—July 20, 1987.

P 87-1179, 87-1180, 87-1181, 87-1182, 87-1183, 87-1184, 87-1185, 87-1186, 87-1187, and 87-1188—July 27, 1987.

P 87-1189, 87-1190, 87-1191, 87-1192, 87-1193, 87-1194, 87-1195, 87-1196, and 87-1197—July 30, 1987.

P 87-1198, 87-1199, 87-1200, 87-1201, and 87-1202—July 31, 1987.

P 87-1203, 87-1204, 87-1205, 87-1206, 87-1207, 87-1208, 87-1209, 87-1210, 87-1211, 87-1212, and 87-1213—August 1, 1987.

P 87-1214, 87-1215, 87-1216, and 87-1217—August 2, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-51679]" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Room L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nn-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87-1178

Importer. U.S. Fuji Electric, Incorporated.

Chemical. (G) Modified organopolysiloxane.

Use/Import. (S) Commercial polishing material to polish the scratched selenium photoconductor surface. Import range: 200 kg/yr.

P 87-1179

Manufacturer. Confidential.

Chemical. (G) Alkylcycloalkanonemalonic acid ester.

Use/Production. (G) Site-limited reaction intermediate. Prod. range: Confidential.

P 87-1180

Manufacturer. Confidential.

Chemical. (G) Cycloalkanonealkyl alcohol.

Use/Production. (G) Site-limited reaction intermediate. Prod. range: Confidential.

P 87-1181

Manufacturer. Confidential.

Chemical. (G) Isocyanate-terminated polyurethane polymer.

Use/Production. (G) Adhesive curing agent for flexible laminations. Prod. range: Confidential.

P 87-1182

Manufacturer. Confidential.

Chemical. (G) Isocyanate-terminated polyurethane polymer.

Use/Production. (G) Adhesive curing agent for flexible laminations. Prod. range: Confidential.

P 87-1183

Manufacturer. Confidential.

Chemical. (G) Isocyanate-terminated polyurethane polymer.

Use/Production. (G) Adhesive curing agent for flexible laminations. Prod. range: Confidential.

P 87-1184

Importer. Confidential.

Chemical. (G) 3-Naphthalenesulfonic acid, 1-hydroxy-2-[4-(substituted) azo]phenylazo-7-[substituted] azo-.

Use/Import. (S) Industrial chemical intermediate for manufacture of a dye for leather. Import range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant; Eye—Non-irritant; Ames test—Negative.

P 87-1185

Manufacturer. Confidential.

Chemical. (G) Rosin compounded with a sulfonated polymer.

Use/Production. (S) Industrial printing ink auxiliary. Prod. range: Confidential.

P 87-1186

Manufacturer. Confidential.

Chemical. (G) Butadiene, polymer with acrylonitrile, substituted ethylene, substituted-substituted ethylenes.

Use/Production. (S) Industrial auxiliary for textiles. Prod. range: Confidential.

P 87-1187

Manufacturer. Confidential.

Chemical. (G) Benzenesulfonic acid, 2,2'-(1,2-ethenediyl) bis (substituted) (substituted-, salt).

Use/Production. (S) Industrial intermediate. Prod. range. Confidential.

P 87-1188

Manufacturer. Confidential.

Chemical. (G) Substituted-substituted-substituted indolium salt compounded with a sulfonated polymer.

Use/Production. (S) Industrial printing ink colorant. Prod. range: Confidential.

P 87-1189

Manufacturer. Stepan Company.

Chemical. (G) Benzene sulfonic acid, alkyl derivatives.

Use/Production. (S) Industrial intermediate for manufacture of oil-soluble sulfonates. Prod. range: Confidential.

P 87–1190

Manufacturer. Uniroyal Chemical Company, Incorporated.
Chemical. (G) Polyether polyol terminated toluene diisocyanate polymer.
Use/Production. (S) Industrial various molded sheet or extruded shapes. Prod. range: Confidential.

P 87–1191

Manufacturer. Confidential.
Chemical. (G) Reaction product of polyalkyleneglycol, dibasic acid and aliphatic alcohol.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral: 3.1 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

P 87–1192

Importer. The Sieflor Corporation.
Chemical. (S) 1,6-Hexamethylene-bis-[N,N'-dimethylsemicarbazide).
Use/Import. (S) Industrial polyamide stabilizer for car seating. Import range: 1,000 to 3,000 kg/yr.
Toxicity Data. Acute oral: 4,640 mg/kg; Irritation: Skin—Very mild.

P 87–1193

Importer. Confidential.
Chemical. (G) Substituted methacrylates copolymer.
Use/Import. (G) Antifogging agent. Import range: Confidential.

P 87–1194

Manufacturer. Confidential.
Chemical. (G) Humic acids, sodium salt, polymer with acrylic monomer.
Use/Production. (G) Fluid loss additive for oil and gas production. Prod. range: 38,600 to 86,900 kg/yr.

P 87–1195

Manufacturer. Confidential.
Chemical. (G) Humic acid, sodium salt, copolymer with acrylic monomers.
Use/Production. (G) Fluid loss additive for oil and gas production. Prod. range: 38,600 to 86,900 kg/yr.

P 87–1196

Manufacturer. Confidential.
Chemical. (G) Humic acid, sodium, terpolymer with acrylic monomers.
Use/Production. (G) Fluid loss additive for oil and gas production. Prod. range: 38,600 to 86,900 kg/yr.

P 87–1197

Manufacturer. Confidential.
Chemical. (G) Humic acid, sodium salt, tetrapolymer with acrylic monomers.
Use/Production. (G) Fluid loss additive for oil and gas production. Prod. range: 38,600 to 86,900 kg/yr.

P 87–1198

Importer. Dainichiseika Color & Chemicals America, Incorporated.
Chemical. (S) 1-1'-Methylene bis(4-isocyanate cyclohexane), polymer with 5-amino-1,3,3,-trimethyl cyclohexane methanamine and n-butylamine and [alpha-hydro-omega-hydroxy poly(oxy-1,2-ethanediyl), alpha-hydro-omega-hydroxy poly[oxy(methyl-1,2-ethanediyl)]] and (hexanedioic acid polymer with 1,4-butanediol and 1,6-hexanediol).
Use/Import. (S) Textile treatment agent. Import range: 10,000 to 20,000 kg/yr.

P 87–1199

Manufacturer. E.I. du Pont de Nemours & Company, Inc.
Chemical. (G) Ethylene copolymer.
Use/Production. (G) Packaging. Prod. range: Confidential.

P 87–1200

Manufacturer. Henkel Process Chemicals, Incorporated.
Chemical. (G) Alkyl polyether halide.
Use/Production. (G) Process intermediate. Prod. range: Confidential.

P 87–1201

Manufacturer. Boehme Filatex, Incorporated.
Chemical. (S) 1-Heptadecanoe, 16-methyl, phosphate.
Use/Production. (G) Lubricant component for synthetic fibers. Prod. range: Confidential.

P 87–1202

Importer. Confidential.
Chemical. (G) Modified acrylic lacquer.
Use/Production. (G) Wet coating applied to paper and dried and cured in a hot air oven. Coating is thermoset. Import range: Confidential.

P 87–1203

Manufacturer. Lilly Industrial Coatings Incorporated.
Chemical. (G) Polymer of benzenedicarboxylic acids, aliphatic acids, and aliphatic diols.
Use/Production. (G) Industrial liquid paints. Prod. range: 143,000 to 180,000 kg/yr.

P 87–1204

Manufacturer. Chattem Chemicals.
Chemical. (G) Aluminum alkoxide chelate.
Use/Production. (S) Rheological control agent for coatings. Prod. range: Confidential.

P 87–1205

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (G) Emulsifier. Prod. range: Confidential.

P 87–1206

Manufacturer. Confidential.
Chemical. (G) Polyalkylene oxide, aromatic diisocyanate prepolymer.
Use/Production. (G) Reactive elastomer. Prod. range: Confidential.

P 87–1207

Manufacturer. The Goodyear Tire and Rubber Company.
Chemical. (G) Sulfur/olefin adduct.
Use/Production. (S) Industrial vulcanizing agent. Prod. range: 900,000 to 6,820,000 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin-Non-irritation; Eye—Non-irritating; Ames test—Non-mutagenic.

P 87–1208

Manufacturer. Cardolite Corporation.
Chemical. (S) Cashew nutshell liquid polymer with formaldehyde and epichlorohydrin.
Use/Production. (S) Reactive plasticizer for epoxy resins, open, non-dispersive use. Prod. range: Confidential.

P 87–1209

Manufacturer. Cardolite Corporation.
Chemical. (G) Cashew-elastomer copolymer.
Use/Production. (S) Binder resin for friction materials, open, non-dispersive use—resins. Prod. range: Confidential.
Environmental Release/Disposal. Confidential.

P 87–1210

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Substituted benzenediazonium salt, polymer with substituted diphenyl ether.
Use/Production. (S) Site-limited captive intermediate for photosensitive coating. Prod. range: Confidential.

P 87–1211

Manufacturer. Confidential.
Chemical. (G) Isocyanate-terminated polyester/urethane polymer.
Use/Production. (G) Adhesive for flexible laminations. Prod. range: Confidential.

P 87–1212

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) 2-Pyrazoline, 3-(substituted)—1-[p-[[2-[2-(substituted amino) ethoxy].

Use/Production. (S) Industrial optical brightener for acrylic fibers. Prod. range: 2,600 to 3,100 kg/yr.

P 87-1213

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) 2-Pyrazoline, 3-(substituted)-1-[p-[[2-[2-(substituted amino) ethoxy]ethyl]sulfony1]pheny1]-.

Use/Production. (S) Industrial optical brightener for acrylic fibers. Prod. range: 2,700 to 3,000 kg/yr.

P 87-1214

Manufacturer. Confidential.

Chemical. (G) Aqueous acrylic emulsion.

Use/Production. (G) Adhesives additive in an open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >5.0 g/kg; Irritation: Skin—Practically non-irritating; Eye—Irritant.

P 87-1215

Manufacturer. Allied Signal Corporation.

Chemical. (G) Aromatic quarternary ammonium salts of pyrophosphoric acid esters.

Use/Production. (S) Industrial surfactant in a solvent drying system. Prod. range: Confidential.

Toxicity Data. Acute oral: 5-10 ml/kg; Acute dermal: >2.0 ml/kg; Irritation: Skin—Severe; Skin Sensitization—Mild.

P 87-1216

Importer. Dainichiseika Color & Chemicals America, Inc.

Chemical. (G) Polyester polyol polyurethane and organopolysiloxane containing hyudroxy group copolymer.

Use/Import. (G) Heat-resistant and slide of thermal-transfer sheet (back coating agent). Import range: 10,000 to 20,000 kg/yr.

P 87-1217

Importer. Confidential.

Chemical. (G) Potassium alkylsiliconates.

Use/Import. (S) Masonry water repellent. Import range: Confidential.

Dated: June 8, 1987.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 87-13593 Filed 6-12-87:8:45am]

BILLING CODE 65 60-50-M

FARM CREDIT ADMINISTRATION

Final Order Discharging Claims, Vesting Title to Assets, Discharging and Releasing Receiver and Canceling Charter of Puget Sound Production Credit Association

ACTION: Notice.

The Farm Credit Administration publishes a Final Order canceling the charter and discharging and releasing the receiver of the Puget Sound Production Credit Association.

Background

Dan Williams was appointed as the Receiver of the Puget Sound Production Credit Association on October 7, 1983, pursuant to a Farm Credit Administration Order Declaring Insolvency and Appointing Receiver (49 FR 29673, July 23, 1984).

In accordance with the terms of a Final Distribution Agreement between Puget Sound Production Credit Association in Receivership and the Federal Intermediate Credit Bank of Spokane dated June 17, 1985, as amended (the "Agreement"), all claims filed by creditors and holders of equities have been paid or provided for, and all remaining assets of Puget Sound Production Credit Association have been transferred to the Federal Intermediate Credit Bank of Spokane, except all rights of Puget Sound Production Credit Association in, to and under all policies of insurance for which consent to assignment has not been obtained, and certain excluded assets.

The accounts of the Receiver and Puget Sound Production Credit Association for the period October 7, 1983, through February 28, 1985, have been approved, and pursuant to a Discharge and Release of Receiver issued by the Farm Credit Administration, the Receiver has been discharged and released from all responsibility or liability to the Farm Credit Administration or any other person or entity arising out of, related to, or in any manner connected with the administration and operation of the Receivership and Puget Sound Production Credit Association for the period from October 7, 1983, through February 28, 1985.

In accordance with 12 CFR 611.1168 and 617.7090, the Receivership and Puget Sound Production Credit Association have been audited and examined for the period March 1, 1985, through the date of this Order.

Order

It is hereby ordered that:

1. All claims of creditors, stockholders, and holders of participation certificates and other equities against the Pugent Sound Production Credit Association and /or the Receiver, except claims with respect to assets transferred to the Federal Intermediate Credit Bank of Spokane, the liability for which has been assumed by the Federal Intermediate Credit Bank of Spokane pursuant to the Agreement, and which are pending and have not been resolved as of the date of this order ("Remaining Claims"), are hereby forever discharged, and the commencement of any action, the employment of any process, or any other act, to collect, recover or offset any such claims are hereby forever barred.

2. All right, title and interest of the Puget Sound Production Credit Association and the Receiver in and to the assets of Puget Sound Production Credit Association, including but not limited to all promissory notes or other obligations payable to the order of Puget Sound Product Credit Association, all settlement agreements, loan files, ship mortgages, mortgages, deeds of trust, security agreements or other security documents and all other collateral of any kind, continuing guarantees, financing statements, loan documentation, real estate and all improvements thereon, leases, motor vehicles, equipment, tools, furniture, furnishings, trade fixtures, cash on hand, cash deposit and bank accounts, cash deposits in court, succors, vessels, claims and causes of action, known or unknown, contingent or fixed, which the Puget Sound Production Credit Association may have against third parties, rights of the Puget Sound Production Credit Association under all contracts and agreements whether written or oral, rights of the Puget Sound Production Credit Association in, to and under all policies of insurance, and other real or personal property of any kind, including without limitation, accounts, accounts receivable, contract rights, contracts, documents, chattel paper, instruments and general intangibles, is hereby vested in the Federal Intermediate Credit Bank of Spokane, free and clear of all liens, claims, charges, encumbrances or other interests of any person, except Remaining Claims. This paragraph does not apply to the following excluded assets: the right to use the name Puget Sound Production Credit Association and all records of the Puget Sound Production Credit Association retained by the Farm Credit Administration.

3. The Federal Intermediate Credit Bank of Spokane is hereby granted

continuing signature authority on behalf of Puget Sound Production Credit Association for the limited purpose of releasing collateral which secured obligations owing to Puget Sound Production Credit Association, when it is established to the satisfaction of the Federal Intermediate Credit Bank of Spokane that the obligations secured were fully satisfied prior to the appointment of the Receiver.

4. The accounts of the Receiver and Puget Sound Production Credit Association for the period October 7, 1983, through date of this Order are hereby approved.

5. The Receiver is hereby finally discharged and released from all responsibility or liability to the Farm Credit Administration or any other person or entity arising out of, related to, or in any manner connected with, administration and operation of the Receivership and Puget Sound Production Credit Association for the period from October 7, 1983, through the date of this Order.

6. The charter of Puget Sound Production Credit Association is hereby canceled.

7. Where an insurer under an insurance policy assigned or transferred by virtue of this Order or otherwise to the Federal Intermediate Credit Bank of spokane refuses to accept or recognize the assignment or transfer of Puget Sound Production Credit Association's rights under the policy to the Federal Intermediate Credit Bank of Spokane, the Farm Credit Administration may reopen the Receivership to accept a reconveyance of all rights under such insurance policy from the Federal Intermediate Credit Bank of Spokane to Puget Sound Production Credit Association and to assert, prosecute and administer in the name of Puget Sound Production Credit Association the Claims of Puget Sound Production Credit Association under such insurance policy, whether now existing or hereafter arising.

Dated: May 6, 1987.

William A. Sanders, Jr.,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-13577 Filed 6-12-87; 8:45 am]

BILLING CODE 6705-01-M

Final Order Discharging Claims, Vesting Title to Assets, Discharging and Releasing Receiver and Canceling Charter of Southern Oregon Production Credit Association

ACTION: Notice.

The Farm Credit Administration publishes a Final Order canceling the charter and discharging and releasing the receiver of the Southern Oregon Production Credit Association.

Background

Dan Williams was appointed as the Receiver of the Southern Oregon Production Credit Association on October 19, 1983, pursuant to a Farm Credit Administration Order Declaring Insolvency and Appointing Receiver (49 FR 29675, July 23, 1984).

In accordance with the terms of a Final Distribution Agreement between Southern Oregon Production Credit Association in Receivership and the Federal Intermediate Credit Bank of Spokane dated June 17, 1985, as amended (the "Agreement"), all claims filed by creditors and holders of equities have been paid or provided for, and all remaining assets of Southern Oregon Production Credit Association have been transferred to the Federal Intermediate Credit Bank of Spokane, except all rights of Southern Oregon Production Credit Association in, to and under all policies of insurance for which consent to assignment has not been obtained, and certain excluded assets.

The accounts of the Receiver and Southern Oregon Production Credit Association for the period October 19, 1983, through February 28, 1985, have been approved, and pursuant to a Discharge and Release of Receiver issued by the Farm Credit Administration, the Receiver has been discharged and released from all responsibility or liability to the Farm Credit Administration or any other person or entity arising out of, related to, or in any manner connected with the administration and operation of the Receivership and Southern Oregon Production Credit Association for the period from October 19, 1983, through February 28, 1985.

In accordance with 12 CFR 611.1168 and 617.7090, the Receivership and Southern Oregon Production Credit Association have been audited and examined for the period March 1, 1985, through the date of this Order.

Order

It is hereby ordered that:

1. All claims of creditors, stockholders, and holders of participation certificates and other equities against the Southern Oregon Production Credit Association and/or the Receiver, except claims with respect to assets transferred to the Federal Intermediate Credit Bank of Spokane, the liability for which has been assumed by the Federal Intermediate Credit Bank of Spokane pursuant to the Agreement, and which are pending and have not been resolved as of the date of this order ("Remaining Claims"), are hereby forever discharged, and the commencement of any action, the employment of any process, or any other act, to collect, recover or offset any such claims are hereby forever barred.

2. All right, title and interest of the Southern Oregon Production Credit Association and the Receiver in and to the assets of Southern Oregon Production Credit Association, including but not limited to all promissory notes or other obligations payable to the order of Southern Oregon Production Credit Association, all settlement agreements, loan files, ship mortgages, mortgages, deeds of trust, security agreements or other security documents and all other collateral of any kind, continuing guarantees, financing statements, loan documentation, real estate and all improvements thereon, leases, motor vehicles, equipment, tools, furniture, furnishing, trade fixtures, cash on hand, cash deposit and bank accounts, cash deposits in court, succors, vessels, claims and causes of action, known or unknown, contingent or fixed, which the Southern Oregon Production Credit Association may have against third parties, rights of the Southern Oregon Production Credit Association under all contracts and agreements whether written or oral, rights of the Southern Oregon Production Credit Association in, to and under all policies of insurance, and other real or personal property of any kind, including without limitation, accounts, accounts receivable, contract rights, contracts, documents, chattel paper, instruments and general intangibles, is hereby vested in the Federal Imtermediate Credit Bank of Spokane, free and clear of all liens, claims, charges, encumbrances or other interests of any person, except Remaining Claims. This paragraph does not apply to the following excluded assets: The right to use the name Southern Oregon Production Credit Association and all records of the Southern Oregon Production Credit Association retained by the Farm Credit Administration.

3. The Federal Intermediate Credit Bank of Spokane is hereby granted continuing signature authority on behalf of Southern Oregon Production Credit Association for the limited purpose of releasing collateral which secured obligations owing to Southern Oregon Production Credit Association, when it is established to the satisfaction of the Federal Intermediate Credit Bank of Spokane that the obligations secured were fully satisfied prior to the appointment of the Receiver.

4. The accounts of the Receiver and Southern Oregon Production Credit Association for the period October 19, 1983, through date of this Order are hereby approved.

5. The Receiver is hereby finally discharged and released from all responsibility or liability to the Farm Credit Administration or any other person or entity arising out of, related to, or in any manner connected with, administration and operation of the Receivership and Southern Oregon Production Credit Association for the period from October 19, 1983, through the date of this Order.

6. The charter of Southern Oregon Production Credit Association is hereby canceled.

7. Where an insurer under an insurance policy assigned or transferred by virtue of this Order or otherwise to the Federal Intermediate Credit Bank of Spokane refuses to accept or recognize the assignment or transfer of Southern Oregon Production Credit Association's rights under the policy to the Federal Intermediate Credit Bank of Spokane, the Farm Credit Administration may reopen the Receivership to accept a reconveyance of all rights under such insurance policy from the Federal Intermediate Credit Bank of Spokane to Southern Oregon Production Credit Association and to assert, prosecute and administer in the name of Southern Oregon Production Credit Association the claims of Southern Oregon Production Credit Association under such insurance policy, whether now existing or hereafter arising.

Date: May 6, 1987.

William A. Sanders, Jr.,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-13578 Filed 6-12-87; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Deregistration Form for Registered Transfer Agents (OMB No. 3064-0027).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assitant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY

The FDIC is requesting OMB approval for a three-year extension of the expiration of the form used by an insured nonmember bank to withdraw from registration with the FDIC as a transfer agent. There is no change in the method or substance of the information collected. Under FDIC regulation 12 CFR 341.5 such written notice of withdrawal is required when a registered transfer agent ceases to engage in the functions of a transfer agent. This requirement implements the provisions of section 17A(c)(3)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78g-1). It is estimated that this information collection requirement imposes an annual paperwork burden of 12 hours, collectively, on respondents.

Dated: June 4, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-13538 Filed 6-12-87; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Uniform Form for Registration as a Transfer Agent (OMB No. 3064-0026).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval for a three-year extension of Form TA-1 used by an insured nonmember bank to register as a transfer agent with the FDIC as required by FDIC regulation 12 CFR Part 341. There is no change in the method or substance of the information collected. Section 17A(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q) requires a transfer agent to be registered with the appropriate regulatory agency prior to performing the functions of a transfer agent. It is estimated that this information collection requirement imposes an annual paperwork burden of 14 hours, collectively, on respondents.

Dated: June 4, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-13539 Filed 6-12-87; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 87-636]

Accountability of Directors and Officers; Policy Statement

Date: June 5, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Statement of policy; request for comment.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), hereby adopts a Statement of Policy concerning the standards under which the FSLIC determines when to file lawsuits and pursue claims against corporate

directors and officers of FSLIC-insured institutions that have failed. The Board also solicits public comment on the issues raised herein, as well as upon other issues that may have relevance to the general topic of corporate directors' and officers' liability and their liability insurance.

DATES: *Effective:* June 15, 1987. Comments must be received on or before August 14, 1987.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Paul W. Grace, (202) 377–6424, Associate General Counsel, Division of Litigation and Special Projects; or Jerilyn Rogin, (202) 377–7018, Attorney, Division of Regulations and Legislation, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: During recent years, a problem affecting the entire financial institutions industry has been developing. Insurance protection for directors and officers of banks and thrift institutions has become both expensive and scarce.[1] It has been suggested that one reason for the reluctance on the part of insurance companies to offer this kind of insurance is the rising number of suits challenging actions and decisions of thrift managers, particular after an intitution's failure. The Statement of Policy delineates some of the factors that are weighed by the FSLIC in determining whether to bring suit against directors and officer following the failure of an insured thrift. The Board solicits public comment on all issues raised by the Statement of Policy contained herein.

Statement of Policy: Accountability of Directors and Officers

On May 8, 1985, the Bank Board's Office of Examinations and Supervision (now the Office of Regulatory Policy, Oversight and Supervision ("ORPOS") of the Federal Home Loan Bank System) issued an "R" Series Memorandum addressing Directors' Responsibilities and Procedures for Obtaining Information to Support Directors' Decisions. ORPOS Memorandum No. R 62 (May 8, 1985). That Memorandum provided guidelines that the Board believes are applicable to the conduct of financial institution managers. The Board notes that the fiduciary nature of the duties and responsibilities of corporate directors and officers, and particularly of managers of financial institutions, is firmly rooted in our legal tradition and has been the subject of much legal analysis, discussion, and litigation.

Since 1980, more FSLIC-insured institutions have failed than during any other period since the Great Depression. Hundreds of savings and loan associations have fallen victim to drastic changes in the economy. Some have been victimized by unscrupulous individuals both inside and outside the association, and others have failed as a result of serious breaches of duty by boards of directors and management. Following the failure of a FSLIC-insured institution, the FSLIC conducts an investigation into the reasons for the failure. The Board views such inquiries as an essential element of the FSLIC's responsibilities as receiver or conservator of such institutions and as an important tool in fulfilling the Board's own regulatory mandate.

When an investigation reveals that directors or officers of a failed institution have violated their fiduciary duties of care or loyalty, the Board will direct the FSLIC to pursue claims against those individuals to recoup, to the extent possible, the losses caused by their misconduct. The determination to pursue such claims must be based upon an evaluation of the merits of each claim.

The Board has filed approximately seventy lawsuits to date against directors and officers of thrifts that failed during the past seven years. Recoveries by the FSLIC from judgments and settlements to date total more than $115 million. Although a number of investigations are continuing, suits against former directors and officers were not filed by the Board in most of the hundreds of failures that occurred during this period. These statistics support the Board's conviction that the vast number of directors and officers of insured thrifts are individuals of great personal integrity dedicated to preservation of a safe and sound thrift industry.

The claims that have been pursued by the FSLIC following thrift failures reflect the Board's intent not to second-guess directors and officers who have exercised business judgment after due diligence and reasonable care in the performance of their duties. Officers and directors are not expected to be infallible, and the Board recognizes that errors in business judgment may occur. Business judgment errors do not occasion FSLIC lawsuits. However, the Board does intend to cause the FSLIC vigorously to pursue claims against individuals whose breaches of fiduciary duty cause the collapse of an insured institution. The May 8, 1985, R-Memorandum, which is attached hereto as an appendix, is one set of guidelines that the FSLIC will use in evaluating the conduct of directors and officers.

Claims brought against directors and officers have been based on egregious conduct by those pursued, not simple errors of judgment. The business judgment rule will not protect individuals who permit continuing violations of laws regulating the business of insured institutions. Directors and officers will be held to a high standard of care in ensuring that their associations are operated safely, prudently, and within the regulatory limits governing the industry. Directors and officers will be held to a high standard of loyalty to ensure that they not compromise the best interests of their association in favor of their own personal interests. Failure to fulfill these responsibilities will preclude application of the business judgment rule.

In summary, the Board stresses the need for knowledgeable, competent, and responsible individuals to continue to serve the thrift industry as directors and officers and encourages their service. The Board is confident that its vigorous pursuit of the small minority of individuals who have been dishonest or have failed to carry out their fiduciary duties in such positions will not deter the great many honest and diligent individuals filling these critically important roles.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,
Acting Secretary.

Appendix—Federal Home Loan Bank Board, Office of Examinations and Supervision Memorandum

[R 62]

May 8, 1985.

Directors' Responsibilities

TO: OES Professional Staff.
FROM: William J. Schilling.

Regulations exist which delineate duties and limit activities of members of

[1] Directors' and officers' ("D&O") insurance generally protects directors and officers of a corporation against personal liability for losses incurred by a third party due to the individual's negligent performance as a director or officer. Losses attributable to "dishonest" acts, as opposed to negligent acts, are covered by fidelity (or "blanket") bonds. The Board's insurance regulations (12 CFR 563.19) require FSLIC-insured thrifts to maintain fidelity bond coverage. There is no requirement that D&O insurance be maintained.

a thrift institution's board of directors. While it is the responsibility of each director to comply with all regulations, board members have a far broader responsibility to the institution to meet their fiduciary duties and to exercise reasonable care and due diligence in supervising the management of their institution's affairs.

1. General

Directors of a thrift institution have a duty of care and loyalty. The duty of care requires a director to act in good faith and with the care of an ordinary prudent person in a like position under similar circumstances. In the savings and loan business, directors must recognize that their insitutions are primarily engaged in lending funds of their depositors or members to others. The directors have a primary responsibility to assure that the institution is operated prudently and in a safe and sound manner so that these borrowed funds will be adequately protected.

The duty of care includes the responsibility of the directors to select and retain competent management; to oversee the activities of the institution by attending directors' meetings; to require that adequate and reliable information is provided upon which they can make decisions; to carefully review the documentation which is provided; to make the necessary policy decisions upon which management is to operate the institution to monitor the activities that are delegated to the officers of the institution to insure that the board of directors' policies are being carried out; and to establish controls to assure themselves that the institution is being operated in a safe and sound manner and in compliance with law and regulations. "Directors who willingly allow others to make major decisions affecting the future of the corporation wholly without supervision or oversight may not defend on their lack of knowledge, for that ignorance itself is a breach of fiduciary duty." *Joy* v. *North*, 692 F.2d 880, 896 (2d Cir. 1982).

Directors of a thrift institution also owe a duty of undivided and unqualified loyalty to the institution they serve. Thus, directors are not permitted to use their positions to profit personally at the expense of the institution. The duty of loyalty prohibits directors from usurping, for their own advantage, an opportunity that properly belongs to the institution or any affiliate thereof and from entering into unfair transactions or contracts with them. A director should not solicit or accept preferential treatment from the institution or its affiliates (other than that specifically allowable by law) with regard to loan terms or other investment offerings and should consistently seek to avoid any transaction which would give the appearance of preferential treatment or usurpation of corporate opportunity.

2. Oversight Responsibility

There must be an adequate system of checks and balances between management and the outside directors of a thrift institution to insure that the outside directors, who constitue a majority of the board, are promptly and fully informed of serious problems in the institution. There have been instances where the outside directors failed to learn of serious problems in their institution and, consequently, were unable to cause the institution to take adequate and timely steps to correct the situation before large losses occurred or the institution failed. While the outside directors cannot normally be expected to directly establish an adequate system of internal controls, they are responsible to ensure that one is put in place and that it is operating satisfactorily. This responsibility can be adequately met properly structuring the board of directors into appropriate committees and by the use of outside experts and a compliance officer reporting directly to the board.

All members of the board of directors, however, should regularly attend board meetings; read reports of the institution and the committees of the board; study the reports of its auditors and the State and Federal supervisory agencies; and give full attention to the reports of the audit committee, other committees of the board, the compliance officer and outside experts. It is to be noted that no check and balance system can effectively work unless those concerned with providing information to the board report directly to the board or a committee of the board. The information must not be diluted, distorted, or muted by management. Of course management should be given a full opportunity to respond before any action is taken.

3. Fiscal Operations

Each directors' meeting should include a review of financial reports. Figures used in the reports should be verified if they appear at all questionable and not simply accepted at face value. Federal and/or State examination report recommendations should be promptly followed. The audit committee, composed solely of outside directors, should provide for annual audits by an independent accounting firm and should assure the establishment of and adherence to a system of internal controls as well.

Directors are responsible for the establishment of a business plan which documents major financial policies, including asset/liability management, investments, and interest rate risk management. While such policies may actually be developed by management at the direction of the board, the directors must thoroughly review and give final approval to each contemplated action. Directors must also approve the institution's budget and ensure that it is ralistic, allows for secure transactions and reflects adequate capital.

4. Lending Operations

Loans constitute a institution's major assets and as such warrant careful clear-cut policies in regard to their substance and the approval process. A board should make the final determination of what types of loans should be made. Minimum written underwriting standards and guidelines must be established and adhered to. Policy should require high-risk or unusual loans to be presented to the board for final approval. The institution's capabilities and the risks involved should be carefully assessed, to insure that the institution has adequate resources to engage in the proposed activity and the return merits the risk undertaken. Efforts to minimize such risks should be fully explored and careful limits should be placed on the amount invested in such loans consistent with the responsibility of the directors to the institution's shareholders, members, depositors, and the public. Loan policies should be made not only with the institution's capabilities and community's needs in mind, but with the responsibility of the institution to operate in a safe and sound manner.

5. Public Relations/Business & Personal Affiliations

Directors should be ever-mindful of the institution's obligation to serve the community. Directors are institution representatives and their behavior can enhance or detract from the association's image and ultimately its fiscal well-being. A director's business and personal affiliations should not be incompatible with those of the institution. Conflicts of interest of any sort should be particularly avoided.

Because a director's personal characteristics may reflect on the institution's trustworthiness, a director should be a responsible and trusted member of the community.

6. Personnel

Probably the most important part of a director's responsibilities is the selection of a managing officer for the institution. Directors should be prepared to let management manage and so should be careful with their choice of a chief executive who runs the institution's day-to-day operations. Directors should define in writing a managing officer's duties and responsibilities. They should establish reasonable salaries and pension plans and approve promotions and bonuses as appropriate.

The deregulated business environment places additional responsibilities on board members. It is incumbent upon the board of directors to thoroughly review any proposed new activity to assure themselves that the venture is pursued in a safe and sound manner and the risks assumed are reasonable ones for the institution to take under the circumstances.

Directors are responsible for operating results. As such, adherence to the following procedures should assist the board of directors in obtaining adequate and accurate information upon which to make informed decisions.

1. *Documentation.* Thorough documentation evidencing the details of all business transactions should be an integral part of an institution's books and records. The records should reflect regulatory compliance and adherence to safe and sound procedures. The directors should have full access to such records and should utilize them in decisionmaking relative to loan approvals, investment transactions, etc. The board of directors' meeting minutes should indicate that the directors are cognizant of and have studied documentation upon which their decisionmaking is based. Each director should have the opportunity to review, and modify if necessary, the minutes before they are approved.

2. *Audit Committee.* An audit committee, composed totally of outside directors, should be appointed to select the outside auditing firm and discuss the scope and results of the audit. It is recommended that the audit committee also select and employ a compliance officer who should be under the direction and control of the audit committee. Membership on the audit committee should not be considered a mere titular honor but a demanding responsibility requiring an active role.

3. *Compliance Officer.* The employment of a compliance officer is also recommended as part of a sound checks and balances system. It is the duty of this officer to monitor all institution business transactions to ensure their compliance with regulatory provisions and their safety and soundness. The officer should be selected by and report to the audit committee.

4. *Compliance Audit.* Compliance audits may be made annually by the internal compliance officer, or in the absence of such an employee, by the board of directors' audit committee or its outside auditor. An audit of this nature will give the institution an opportunity to resolve or remedy any internal problems which might later be the subject of an adverse Bank Board or state examination report.

5. *Adequate Insurance Coverage.* Adequate fidelity bond and directors' and officers' insurance coverage should be maintained to protect the institution and its officers and directors. The directors should periodically review the adequacy of their coverage and review carefully the riders thereto that might impair its utility. The terms of these policies are negotiable.

The actions (or inactions) of a institution's board of directors will be scrutinized by examiners at each examination. Examiners should report as deficiencies those instances where boards are not adequately involved in or informed of institution affairs; where the system of checks and balances between management and the board is deficient; where minutes do not reflect a clear record of their deliberations or where actions do not reflect safety and soundness. Supervisory Agents should require whatever corrective action is deemed appropriate.

Distribution to State supervisory authorities to be made by District Directors-Examinations.

William J. Schilling,

Director.

[FR Doc. 87-13586 Filed 6-12-87 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Commonwealth Bancshares Corp. et al.; Formations of; Acquisition by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 6, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Commonwealth Bancshares Corporation,* Williamsport, Pennsylvania; to acquire 100 percent of the voting shares of Liberty State Bank, Mount Carmel, Pennsylvania.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central Wisconsin Bankshares, Inc.,* Wausau, Wisconsin; to acquire at least 90 percent of the voting shares of Peoples' Bancshares of Antigo, Inc., Antigo, Wisconsin and thereby indirectly acquire The Peoples' Bank, Antigo, Wisconsin. Comments on this application must be received by July 8, 1987.

2. *First Union Bancorporation, Inc.,* Streator, Illinois; to acquire 100 percent of the voting shares of The First National Bank of Triumph, Triumph, Illinois.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Banterra Corp.,* Eldorado, Illinois; to acquire 98.8 percent of the voting shares of Egypt Bancorp, Inc., Marion, Illinois.

d. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Valley Bancorp, Inc.,* Brighton, Colorado; to merge with Lyons Bancorp, Inc., Brighton, Colorado, and thereby indirectly acquire Valley Bank of Lyons, Lyons, Colorado. Comments on this application must be received by June 30, 1987.

Board of Governors of the Federal Reserve System, June 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-13532 Filed 6-12-87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Authorization for Franchisor Use of Revisions to Uniform Franchise Offering Circular

AGENCY: Federal Trade Commission.

ACTION: Authorization for franchisor use of the rivised Uniform Franchise Offering Circular.

SUMMARY: The Commission has approved franchisor use of the revised Uniform Franchise Offering Circular adopted by the North American Securities Administrators Association, Inc. on November 21, 1986, in lieu of the disclosures required by § 436.1(a)(e) of the Commission's franchise trade regulation rule.

FOR FURTHER INFORMATION CONTACT: John M. Tifford, Rule Coordinator for Franchising, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580, telephone: (202) 326-3032.

SUPPLEMENTAL INFORMATION: The Commission's trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (16 CFR Part 436) requires franchisors to make pre-sale disclosure of inforamtion to prospective franchisees by means of a disclosure document whose form and content are set forth in the rule. The Commission's Compliance Guidelines dated August 24, 1979 (44 FR 49966) authorized franchisors to utilize, in lieu of the rule disclosure document, a franchise disclosure document known as the Uniform Franchise Offering Circular ("UFOC") which was adopted by the Midwest Securities Commissioners Association on September 2, 1975, plus its associated guidelines and any minor modifications thereof, that do not diminish the protection accorded to a prospective franchisee and which may be made or allowed by a State in which such registration has been made effective (44 FR at 29970).

On November 21, 1986, the North American Securities Administrators Association, Inc. adopted revisions to items 19 and 20 of the UFOC. The Commission believes that the revisions will provided protection to prospective franchisees which is equal to or greater than that provided by the Commission's franchise rule. As a result, and in an effort to minimize franchisor compliance burdens, the Commission will permit the UFOC format adopted on November 21, 1986, to be used in lieu of the disclosure requirements set forth in § 436.1(a) through (e) of the rule to satisfy the franchise rule's disclosure requirements.

In order to ease any possible burdens on franchisors in the transition to the 1986 UFOC disclosure format, the Commission will permit use, through December 31, 1988, of either the September 2, 1975, or the November 21, 1986, UFOC disclosure format in lieu of the rule's format. Effective January 1, 1989, only the UFOC format adopted on November 21, 1986, will be authorized for use in lieu of the rule's disclosure document.

List of Subjects in 16 CFR Part 436

Franchises, trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-13563 Filed 6-12-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General; Delegations of Authority

Notice is hereby given that the Secretary of Health and Human Services has delegated to the Inspector General, with authority to redelegate, the authorities vested in the Secretary under sections 421(c) and 427(b) of the Health Care Quality Improvement Act of 1986, Title IV of Pub. L. 99-660. These Sections include the authorities pertaining to the imposition and collection of civil money penalties.

The delegation to the Inspector General excludes the authority to issue regulations or submit reports to Congress; and it is effective upon the date of signature.

Dated: May 27, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-13594 Filed 6-12-87; 8:45 am]

BILLING CODE 4150-04-M

Health Care Quality Improvement Act; Public Health Service; Delegations of Authority

Notice is hereby given that the Secretary of Health and Human Services has delegated to the Assistant Secretary for Health, with authority to redelegate, all the authorities vested in the Secretary under the Health Care Quality Improvement Act of 1986, Title IV of Pub. L. 99-660, with the exception of the authorities pertaining to the imposition and collection of civil money penalties contained in sections 421(c) and 427(b).

This delegation to the Assistant Secretary for Health excludes the authority to issue regulations or submit reports to Congress; and it is effective upon the date of signature.

Dated: May 27, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-13595 Filed 6-12-87; 8:45 am]

BILLING CODE 4160-15-M

Food and Drug Administration

[Docket No. 87F-0164]

E.I. du Pont de Nemours & Co., Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that E.I. du Pont de Nemours & Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a polyaramide identified as benzenesulfonic acid, 2,4-diamino-calcium salt (2:1), polymer with 1,3-benzenediamine, 1,3-benzenedicarbonyl dichloride, and 1,4-benzenedicarbonyl dichloride as a polymer membrane forming the food-contact surface of a semipermeable membrane for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3972) has been filed by E.I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898, proposing that the food additive regulations be amended to provide for the safe use of benzenesulfonic acid, 2,4-diamino-, calcium salt (2:1), polymer with 1,3-benzenediamine, 1,3-benzenedicarbonyl dichloride, and 1,4-benzenedicarbonyl dichloride as a polymer membrane forming the food-contact surface of a semipermeable membrane for repeated use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-13549 Filed 6-2-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0184; DESI 10837]

Pathibamate Tablets; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug application (NDA) for Pathibamate Tablets containing a fixed-combination of tridihexethyl chloride and meprobamate. The basis for the withdrawal is that the product lacks substantial evidence of effectiveness. The product has been used to treat various gastrointestinal disorders.

EFFECTIVE DATE: July 15, 1987.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on January 16, 1981 (46 FR 3977), the Director of the Bureau of Drugs (now the Center for Drugs and Biologics) evaluated fixed-combination drug products containing tridihexethyl chloride and meprobamate as lacking substantial evidence of effectiveness for their labeled indications. the Director also proposed to withdraw approval of the new applications for these products and offered an opportunity for a hearing on the proposal.

In response, a hearing request was submitted for the following product containing 25 milligrams (mg) of tridihexethyl chloride and 200 or 400 mg of meprobamate:

Pathibamate-200 and -400 Tablets; NDA 10-837, held by Lederle Laboratories (Lederle), Division of American Cyanamid Company, Pearl River, New York 10965.

Lederle has now withdrawn its hearing request. Accordingly, the Director of the Center for Drugs and Biologics is withdrawing approval of the new drug application for Pathibamate Tablets. The other products for which hearing requests were submitted are not affected by this notice (see 51 FR 11348; 46 FR 36248).

The Director of the Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (section 505, 52 Stat. 1052 though 1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 10-837 and all amendments and supplements thereto are withdrawn effective July 15, 1987.

Shipment in interstate commerce of Pathibamate Tablets or any product that is not the subject of a pending hearing request will then be unlawful.

Dated: June 2, 1987.

Gerald F. Meyer,

Acting Deputy Director, Center for Drugs and Biologics.

[FR Doc. 87-13548 Filed 6-12-87; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1987:

Name: National Advisory Council on Migrant Health

Date and Time: August 5-7, 1987, 9:00 a.m.

Place: USPHS Regional Office, 50 United Nations Plaza, San Francisco, CA 94102

Purpose

The Council is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Resources and Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 of the Public Health Service Act.

Agenda

The members of the Council will consider the following:

(1) National Health Service Corps—Reduction in available physicians;

(2) U.S. Mexico Border Health Initiative;

(3) NMRP Resource Center, Morbidity Reporting System;

(4) Environmental Health—Emphasis to Toxic Agriculture Chemicals;

(5) Malpractice insurance—Impact upon Migrant Health Centers;

(6) Migrant Clinician Network;

(7) Update of MHP program objectives;

(8) Impact of Immigration Reform and Control Act;

(9) Needs Demand Assessment/State Profile;

(10) Environmental Work Group;

(11) Nutrition Project.

Anyone requiring information regarding the subject Council should contact Mrs. Sonia M. Leon Reig, Executive Secretary, National Advisory Council on Migrant Health, Room 7A-30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1153.

Agenda Items are subject to change as priorities dictate.

Dated: June 8, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87-13547 Filed 6-42-87; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Reestablishment of Committees

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92-463, 86 Stat. 770-776] and the Health Research Extension Act of 1985, November 20, 1985 [Pub. L. 99-158, section 402(b)(6)], the Director, NIH, announces the reestablishment, effective July 1, 1987, of the following committees:

Board of Scientific Counselors, National Heart, Lung, and Blood Institute

Clinical Trails Review Committee

Heart, Lung, and Blood Research Review Committee A

Heart, Lung, and Blood Research Review Committee B

Research Manpower Review Committee

The duration of these committees is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: June 10, 1987.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 87-13617 Filed 6-12-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-87-1704]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of a proposed amendment to an existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/DEPT-2, Accounting Records.

EFFECTIVE DATE: This amendment shall become effective without further notice on or before July 15, 1987, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, Telephone (202) 755-6374. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD/DEPT-2 contains a variety of records relating to the Department's accounting functions. Some of these records are insurance claims submitted by HUD-approved mortgages when a mortgagor has defaulted on a single family mortgage loan insured by the Department. Records concerning mortgagors in default, including the claims records described above, also are generally described in another system of records, HUD/DEPT-32, Delinquent/Default/Assigned/Temporary Mortgage Assistance Payments (TMAP) Program. On July 3, 1986, at 51 FR 24445, the Department amended HUD/DEPT-32 to establish a new routine use which would permit disclosure of the names of mortgagors with loans in default, or on which the Department has paid a claim, to Title II approved mortgage lenders. These disclosures permit mortgage lenders to verify information provided by new loan applicants and to evaluate the credit worthiness of applicants.

Because some records concerning mortgagors in default are described in HUD/DEPT-2, as well as in HUD/DEPT-32, HUD has decided to amend HUD/DEPT-2 to clarify that lists of mortgagors who have defaulted on HUD-insured loans will be distributed to Title II approved mortgage lenders. This proposed amendment to HUD/DEPT-2 should eliminate any confusion about whether the Department has given adequate notice of its intended disclosure of information concerning individuals in default on HUD-insured single family loans, as required by 5 U.S.C. Section 552a(e)(11).

The amended portion of the system notice is set forth below. Previously, the system and a prefatory statement containing the general routine uses applicable to all of the Department's systems of records were published in the "Federal Register Privacy Act Issuances, 1985 Compilation, Volume II."

Authority: 5 U.S.C. sec. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. sec. 3535(d)).

Dated: June 8, 1987.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

HUD/DEPT-2

SYSTEM NAME:

Accounting Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs in the prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof; Internal Revenue Service—for reporting of sales commissions and to obtain current mailing addresses; General Accounting Office, General Services Administration, Department of Labor, Labor housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgagee lenders—for accounting and financial reference purposes, for verifying information provided by new loan applicants and for evaluating credit worthiness; HUD contractor—for mortgage note servicing; to other Federal agencies for the purpose of collecting debts owed to the Federal Government by administrative or salary offset.

* * * * *

[FR Doc. 87-13516 Filed 6-12-87; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Compliance With the National Environmental Policy Act; Intent To Prepare a Legislative Environmental Impact Statement on Coastal Barrier Resources

AGENCY: Department of the Interior.

ACTION: Notice of intent to prepare a legislative environmental impact statement.

SUMMARY: This notice advises the public that the Department of the Interior intends to prepare a legislative environmental impact statement (LEIS) to supplement the 1983 Final Environmental Statement on Undeveloped Coastal Barriers in order to assess the environmental implications of the Assistant Secretary of the Interior's proposed report to the Congress concerning recommendations for conservation of the fish, wildlife, and other natural resources of the Coastal Barrier Resources System (CBRS), and Tecommendations for additions, deletions, and modifications in the boundaries of CBRS, as required by section 10(c)(1)(2) of the Coastal Barrier Resources Act (CBRA) (16 U.S.C. 3509). The purpose of the Act is to protect and conserve fish, wildlife and other natural resources, and minimize the loss of human life and the wasteful expenditure of Federal revenues through the removal of Federal incentives for new development on undeveloped coastal barriers along the Atlantic Ocean and Gulf of Mexico coasts.

The LEIS will assess the implications of the proposed expanded definition of "undeveloped coastal barrier" as stated in section 3 of CBRA, including (a) the addition of all aquatic habitats assocated with [1] coastal barriers currently in the CBRS and [2] coastal barriers along the Atlantic Ocean and Gulf of Mexico coasts that are recommended for addition to the CBRS; (b) undeveloped and unprotected coastal barriers within large embayments, such as the Chesapeake Bay and Narragansett Bay; (c) undeveloped and unprotected coastal barriers in Puerto Rico and the U.S. Virgin Islands; and (d) unprotected and undeveloped areas along the Atlantic Ocean and Gulf of Mexico coasts that function as coastal barriers but are not composed entirely of unconsolidated materials, such as the carbonate-cemented and mangrove shorelines of the Florida Keys and the Caribbean, and the bed rock/glacial deposits in New England.

The LEIS will compare the No Action alternative, which would have the CBRS remain as it currently exists, with the new Proposed Action alternative, which would add to the CBRS those areas which have been identified as falling within the proposed expansion of the definition of "undeveloped coastal barrier" as indicated in section 3 of CBRA.

FOR FURTHER INFORMATION CONTACT: Ms. Audrey Dixon, Coastal Barriers Study Group, U.S. Department of the Interior, National Park Service, Washington, DC 20013-7127, (202) 343-8115.

SUPPLEMENTARY INFORMATION: In conformance with the CBRA, the Secretary of the Interior is required to transmit to the Congress a report of his findings and conclusions that result from a study conducted for the proposes of designating coastal barriers in addition to those already designated as the CBRS, and of including any recommendations regarding the definition of the term "coastal barrier" as stipulated in the Coastal Barrier Resources Act of 1982. The LEIS will supplement and tier upon the Statement released in May 1983 by the Department of the Interior. It will assess the environmental implications of proposed changes in the definitions and delineation criteria in order to conform with CBRA or proposed recommendations to Congress, and will examine the environmental effects of the proposed report.

On March 25, 1987, a notice was published in the **Federal Register** (52 FR 9618) announcing the availability of the Assistant Secretary's proposed recommendations regarding additions to and deletions from the CBRS and for conservation of the CBRS' natural resources. The comments solicited by that notice are to be received no later than June 23, 1987. Those comments will be considered in both the preparation of the final LEIS and the Secretary of the Interior's final report to Congress.

Interested agencies, organizations, and members of the general public will be invited to submit comments for consideration with regard to the proposed LEIS.

Dated: June 8, 1987.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-13580 Filed 6-12-87; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

[AA-620-4211-12-24-10]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20403, telephone 202-395-7340.

Title: Oil and Gas Exploration and Leasing; 43 CFR Parts 3000 through 3100.

Abstract: Respondents supply information which will be used to determine the eligibility of an applicant to hold, explore for, and produce oil and gas on Federal lands. The information supplied allows the Bureau of Land Management to determine whether an applicant is qualified to conduct geophysical operations and to hold a lease to obtain a benefit under the terms of the Mineral Leasing Act of 1920.

Bureau Form Number: N/A.

Frequency: On Occasion.

Description of Respondents: Individuals and oil, exploration and drilling companies.

Annual Responses: 750.

Annual Burden Hours: 1,482.

Bureau Clearance Officer: Rick Iovaine (202) 653-8853.

Dated: May 13, 1987.

John W. Bebout,

Acting Director.

[FR Doc. 87-13558 Filed 6-12-87; 8:45 am]

BILLING CODE 4310-04-M

[WY-031-07-4212-14; W-102211]

Realty Action; Proposed Direct Sale; Public Land Parcels; Fremont County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; proposed direct sale of public land parcels in Fremont County, Wyoming.

SUMMARY: The Bureau of Land Management proposes to sell the following described public lands, surface and mineral estates, excepting oil and gas, to American Nuclear Corporation pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713, 1719:

Sixth Principal Meridian

T. 33 N., R. 90 W.,
Sec. 28, lot 2, NW¼NW¼, S½NW¼, NE¼SW¼, W½SW¼ and W½SE¼;
Sec. 29, lots 4, 5, and 10;
Sec. 33, lot 1 and NW¼NE¼.

The above lands aggregate 531.45 acres.

The American Nuclear Corporation wishes to acquire the lands for possible use as a disposal site for uranium mill tailings now located at Riverton, Wyoming. Removal and disposal of those mill tailings would be under a contract to be awarded by the Department of Energy.

The proposed direct sale to ANC would be made at fair market value. Additionally, ANC will be required to submit a nonrefundable application fee of $50.00 in accordance with 43 CFR Subpart 2720 for conveyance of all unreserved mineral interests in the lands.

The proposed sale is consistent with the Lander Resource Area Management Plan and would serve important public objectives. The lands contain no other known public values. The planning document and environmental assessment/land report covering the proposed sale will be available for review at the Bureau of Land Management, Lander Resource Area Office, Lander, Wyoming.

Conveyance of the land would be subject to the following:

1. Reservation of a right-of-way for ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945.

2. Reservation of oil and gas to the United States with the right to prospect, explore, and develop the same in accordance with the provisions of the mineral land laws in force at the time of disposal.

3. Oil and gas leases BLM serial numbers W-82015, W-86876, W-88419, W-88420, and W-100105.

4. Any other valid existing rights including rights-of-way that are identified during the evaluation process.

5. All unpatented mill site and lode mining claims encumbering the lands and held by ANC would be relinquished by ANC upon conveyance of the surface estate, and locatable mineral estate, if there are no known mineral values. If the land is determined to contain valuable locatable mineral resources, conveyance of the surface estate would

be issued subject to the reservation of the mineral resources to the U.S.

A portion of the public lands involved are leased for grazing by Cornelius Murphy. No cancellation of grazing preference is expected as a result of this proposal.

The public lands described above shall be segregated from all forms of appropriation under the public land laws, including the mining laws upon publication of this notice in the **Federal Register**. The segregative effect will end upon issuance of the patent or 270 days from the date of the publication, whichever comes first.

FOR FURTHER INFORMATION CONTACT: Jack Kelly (Area Manager), (307) 332–7822.

SUPPLEMENTARY INFORMATION: For a period of forty-five (45) days from the date of issuance of this notice, interested parties may submit comments to the Bureau of Land Management, Area Manager, Lander, P.O. Box 589, Lander, WY 82520. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections this proposed realty action will become final.

Dated: June 5, 1987.

Jack Kelly,

Area Manager.

[FR Doc. 87–13542 Filed 6–12–87; 8:45 am]

BILLING CODE 4310–22–M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0578, Block 215, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon City, Louisiana.

DATE: The subject DOCD was deemed submitted on June 5, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m. Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: June 5, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–13543 Filed 6–12–87; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Samedan Oil Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Samedan Oil Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6808, Block 101, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATES: The subject DOCD was deemed submitted on June 5, 1987. Comments must be received on or before June 30, 1987, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rough, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: June 5, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–13544 Filed 6–12–87; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

General Management Plan; Death Valley National Monument, California and Nevada; Intent to Prepare an Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act, the National Park Service, Department of the Interior will prepare an Environmental Impact Statement to assess the potential impacts of future development and management options

in conjunction with the General Management Plan for Death Valley National Monument, California and Nevada.

The Notice of Intent to prepare the General Management Plan was published on page 27640 of Volume 49, Number 130 of the **Federal Register** dated July 5, 1984. Since that time, scoping for the plan has included meetings with agencies and organizations having an interest in the project, mailings announcing the project, contact with Monument visitors and interdisciplinary team meetings with interested agencies, organizations and individuals. The scoping and preparation of the Plan has indicated that the proposals being considered have the potential for significant impacts and would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an EIS in conjunction with the Plan is appropriate.

The General Management Plan and EIS will investigate alternatives ranging from no action to minimal requirements needed to meet visitor demand and resource protection, to a variety of development and management proposals designed to enhance visitor use and resource protection. Federal, state and local agencies, and other individuals or organizations who may be interested in, or affected by the future development of Death Valley National Monument are further invited to participate in refining or identifying issues to be considered. Written comments and suggestions concerning preparation of the EIS should be sent to: Superintendent, Death Valley National Monument Death Valley, California 92328, by July 31, 1987. Questions on this matter should also be sent to the same address. W. Lowel White, Acting Regional Director for the Western Region in San Francisco, California is the responsible official.

Preparation of the Plan and EIS is expected to take about 18 months. The draft Plan and EIS should be available for public review by spring, 1988 with the final Plan and EIS and Record of Decision expected to be completed by the end of 1988.

Dated: June 2, 1987.

John D. Cherry,

Acting Regional Director, Western Region National Park Service.

[FR Doc. 87-13582 Filed 6-13-87; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore; Parkwide Bicycle Trail Study/Traffic Assessment Study/Environmental Assessment

AGENCY: National Park Service, Interior.

ACTION: Notice of extension to comment period for the Parkwide Bicycle Trail Study/Traffic Assessment Study/ Environmental Assessment.

SUMMARY: The National Park Service has extended the comment period for the Parkwide Bicycle Trail Study/Traffic Assessment Study/Environmental Assessment (EA). This extension will provide an additional 15 days to review the detailed analysis of the needs and conditions and alternative locations for a bicycle trail network on the lower Cape.

With this Notice of Extension, the National Park Service will continue to seek comments on the EA. These comments will assist the National Park Service in selecting an alternative for a bicycle trail network.

DATE: Written comments will be accepted until June 30, 1987.

ADDRESS: Comments should be directed to: Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663.

Copies of the EA are available at the Cape Cod National Seashore Headquarters office in South Wellfleet, Mass.

Dated: June 5, 1987.

James C. Killian,

Acting Superintendent, Cape Cod National Seashore.

[FR Doc. 87-13583 Filed 6-12-87; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF JUSTICE

[Civil Action No. A86-006]

Lodging of Consent Decree Pursuant to Clean Water Act; Magic Circle

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 2, 1987, a proposed consent decree in *United States* v. *Magic Circle*, Civil Action No. A86-006, was lodged with the United States District Court for the District of Alaska. The complaint filed by the United States alleged violations of the Clean Water Act by defendant due to discharges of pollutants from defendant's placer gold mine. The consent decree provides for payment of a civil penalty and for injunctive relief to restrain further violations of the Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Magic Circle*, D.J. Ref. No. 90-5-1-1-2576. The proposed consent decree may be examined at the office of the United States Attorney, Federal Building and U.S. Courthouse, 701 C Street, Room C-252, Anchorage, Alaska 99513, and at the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-13565 Filed 6-12-87; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. A86-351]

Lodging of Consent Decree Pursuant to Clean Water Act; Word

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 2, 1987, a proposed consent decree in *United States* v. *Word*, Civil Action No. A86-351, was lodged with the United States District Court for the District of Alaska. The complaint filed by the United States alleged violations of the Clean Water Act by defendant due to discharges of pollutants from defendant's placer gold mine. The consent decree provides for payment of a civil penalty and for injunctive relief to restrain further violations of the Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Word*, D.J. Ref. No. 90-5-1-1-2625.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Building and U.S. Courthouse, 701 C Street, Room C-252, Anchorage, Alaska 99513, and at the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-13566 Filed 6-12-87; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

National Cooperative Research Modifications CPW Technology

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.*, Pub. L. 98-462 ("the Act"), CPW Technology has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties to CPW Technology, and (2) the nature and objectives of CPW Technology. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to CPW Technology and its general areas of planned activities are given below.

CPW Technology is a general partnership formed by agreement dated April 21, 1987, under the California Uniform Partnership Act, and is comprised of:

1. Paramount Pictures Corporation, 5555 Melrose Avenue, Los Angeles, CA 90038;
2. Columbia Pictures Industries, Inc., Columbia Plaza, Burbank, CA 91522; and
3. Warner Bros., Inc., 4000 Warner Boulevard, Burbank, CA 91522.

CPW Technology will undertake research and development of existing, new, and emerging technologies with actual or potential application to the motion picture or television industries or related businesses, in the following areas:

1. High reproduction quality and low cost, electronic distribution of feature films in copyright-protected format;

2. Computed movies designed for specific audiences, computer-aided movie production, and cameras adapted to such movies and movie production;

3. Anti-piracy devices and techniques for preventing unauthorized copying; and

4. Technology tracking to identify emerging and unforeseen technologies in connection with production, quality and transmission of motion picture and television programming, and a seed program to broaden interests in and initiate work on concepts developed through basic research.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-13551 Filed 6-12-87; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on July 13, 1987, starting at 8:00 a.m., at the Sheraton National Hotel, Columbia Pike & Washington Blvd., Arlington, Virginia 22204. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

The agenda will include the folowing: AIDS; FY 1988 Budget-Reverted Funds; Mid-Level Correctional Managers Training; NIC-Sponsored Conference for Key Legislaitve Research People; Committee to Review Academy Operations; Site Selection; ACA Training Grant; 1987 Reverted Funds-Joint Edna McConnell-Clark NIC Funding, California Corrections Study Program; and the Correctional Officers Project.

Raymond C. Brown,

Director.

[FR Doc. 87-1356 Filed 6-12-87; 8:45 am]

BILLING CODE 4410-05-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (87-54)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, High-Speed Transport Ad Hoc Review Team.

DATE AND TIME: July 7, 1987, 8:30 a.m. to 4:30 p.m.

ADDRESS: Langley Research Center, Building 1219, Room 225, Hampton, VA 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Louis J. Williams, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2798.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee was established to provide overall guidance and direction to the aeronautics research and technology activities in the Office of Aeronautics and Space Technology (OAST). Special Ad Hoc Review Teams are formed to address specific topics. The High-Speed Transport Ad Hoc Review Team, chaired by Mr. Mark E. Kirchner, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the team members and other participants).

Type of Meeting: Open.

Agenda

July 7, 1987

8:30 a.m.—Opening Remarks.
9 a.m.—Research Requirements.
10 a.m.—In-House Studies.
11:45 a.m.—Structures.
1:15 p.m.—Propulsion.
2:30 p.m.—Review Team Executive Session.
4:30 p.m.—Adjourn.

C. Howard Robins, Jr.

Deputy Associate Administrator for Management.

June 8, 1987

[FR Doc. 87-13576 Filed 6-12-87; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guides 10.11, "Guide for the Preparation of Applications for Radiation Safety Evaluation and Registration of Sealed Sources Containing Byproduct Material," provides guidance to sealed source manufacturers and distributors on submitting requests for NRC's radiation safety evaluation and registration of sealed sources containing byproduct material.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 or (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 10th day of June 1987.

For the Nuclear Regulatory Commission.

Denwood F. Ross,

Deputy Director, Office of Nuclear Regulatory Research.

[FR Doc. 87-13614 Filed 6-12-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-48]

Suspension of Some Sanctions; Japan Semiconductor Case

Summary

Pursuant to authority delegated by the President in Proclamation No. 5631 of April 17, 1987, the United States Trade Representative hereby suspends increased duties on imports of 20 inch color televisions from Japan because of Japan's improved conformity with its obligations under the U.S.-Japan Arrangement concerning Trade in Semiconductor Products. The other increased duties imposed by Proclamation No. 5631 remain in effect.

Effective Date: 12:01 a.m., June 16, 1987.

For Further Information Contact: Jim Gradoville, (202) 395-3475 (for technical and policy issues); Chris Parlin, (202) 395-3432 (for legal issues).

Supplementary Information: On April 17, 1987, the President determined, under section 301 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2411, that the Government of Japan had not implemented or enforced major provisions of the Arrangement concerning Trade in Semiconductor Products ("Arrangement"), signed September 2, 1986, and that this is inconsistent with the provisions of, or otherwise denies benefits to the United States under, the Arrangement; and is unjustifiable and unreasonable, and constitutes a burden or restriction on U.S. commerce (52 FR 13419).

In response, the President determined to proclaim increases in customs duties to a level of 100 percent *ad valorem* on certain products of Japan. He did so that same day through Proclamation No. 5631, which raised duties on the products of Japan specified in an annex to the proclamation (52 FR 13412). The President proclaimed in part:

The United States Trade Representative is authorized to suspend, modify, or terminate the increased duties imposed by this Proclamation upon publication in the **Federal Register** of his determination that such action is in the interest of the United States.

Based upon the Department of Commerce's monitoring of the Government of Japan's compliance with the Arrangement, we have determined that Japan has improved its compliance since the increased duties were proclaimed in April. While the access of foreign-based companies to Japan's semiconductor market has not improved and Japanese EPROMs (erasable programmable read only memory semiconductor chips) apparently are still being sold at an unfairly low price, the prices of Japanese DRAMs (dynamic random access memory semiconductor chips) have increased.

As a result of these price increases reducing (but not eliminating) the unfairly low pricing, I have determined that it is in the interest of the United States to partially suspend the increased duties on certain products of Japan. Consequently, I hereby suspend the increased duties imposed by Proclamation No. 5631 on 20 inch color televisions. The Tariff Schedules of the United States are modified to reflect the suspension of the increased duties for articles provided for in item 945.88 as set forth in the annex hereto. This determination shall be published in the **Federal Register.**

Clayton Yeutter,

United States Trade Representative.

Annex

(a) Part 2B of the Appendix to the Tariff Schedules of the United States is modified by deleting item 945.86 and inserting the following new items in numerical sequence in lieu thereof, with the article descriptions at the first level of indentation:

945.87	Complete color television receivers containing in a single housing apparatus for receiving and displaying off-the-air each standard U.S. broadcast channel, with or without external speakers, having a single picture tube intended for direct viewing, with a video display diagonal of 18 or 19 inches (all the foregoing provided for in item 684.92, part 5, schedule 6).	100% ad val	No change.

945.88	Complete color television receivers containing in a single housing apparatus for receiving and displaying off-the-air each standard U.S. broadcast channel, with or without external speakers, having a single picture tube intended for direct viewing, with a video display diagonal of 20 inches (all the foregoing provided for in item 684.92, part 5, schedule 6).	100% ad val	No change.

(b) The increased duties imposed under item 945.88 are suspended.

[FR Doc. 87-13550 Filed 6-12-87; 8:45 am]

BILLING CODE 3190-01-M

Investigation Regarding Ammonium Paratungstate and Tungstic Acid

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Trade Representative (USTR), on behalf of the President, has received a report and recommendation regarding the imposition of import relief for ammonium paratungstate (APT) and tungstic acid from the United States International Trade Commission (USITC) pursuant to section 406 of the Trade Act of 1974. Public comments related to such import relief are due by 12:00 noon, Tuesday, June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Massey, Office of the USTR, 600 17th Street NW., Washington, DC, (202) 395-5050. Copies of the report will be available, after June 12, from the Secretary, USITC, Room 156, 701 E Street NW., Washington, DC, 20436, (202) 523-5178.

SUPPLEMENTARY INFORMATION: On June 5, 1987, the United States International Trade Commission (USITC) reported its findings in an investigation of Ammonium Paratungstate and Tungstic Acid from the People's Republic of China, Inv. No. TA-406-11, to the President through USTR pursuant to section 406 of the Trade Act of 1974 (19 U.S.C. 2436). The USITC unanimously determined, with respect to imports of ammonium paratungstate (APT) and tungstic acid from the People's Republic of China (PRC), that market disruption (defined in section 406(e)(2)) exists.

Pursuant to section 406(a)(3), the USITC reported the following findings:

Chairman Susan Liebler recommended that in order to remedy the market disruption fund with respect to APT and tungstic acid from the PRC, it is necessary to impose a market share quota for a 5-year period restricting the combined volume of such imports to 17.2 percent of U.S. consumption.

Vice Chairman Anne E. Brunsdale recommended a quota restricting the volume of imports of APT and tungstic acid from the PRC for a 5-year period to 2.114 million pounds of tungsten content per year with respect to APT, and 345,000 pounds of tungsten content per year with respect to tungstic acid.

Commissoner Alfred Eckes, Seeley G. Lodwick, and David B. Rohr recommended a quota restricting the combined volume of APT and tungstic acid imports for a 5-year period to the larger of 1.116 million pounds of tungsten content per year or 7.5 percent of U.S. consumption.

After receiving the USITC's advice and recommendations, the President must determine what method and amount of import relief he will provide, unless he determines that the imposition of import relieve is not in the national economic interest.

In determining whether to grant import relief, and if so, what form of relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the followng factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic market for such products;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on the United States industries and firms as consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reasons of restraints on exports of articles to, or on imports of such articles into, third country markets' and

(7) The economic and social costs which would be incurred by taxpayers, communities, and workers if an extension of import relief was or was not provided;

Particular emphasis should be given to point (1) concerning the effectiveness of relief to promote adjustment, and industry's efforts/plans to adjust.

Following interagency review and advice, the USTR will make a recommendation to the President regarding the appropriate form an imposition import relief should take, or, alternatively, whether it would be contrary to the economic interest of the United States to impose such import relief.

USTR welcomes briefs and comments from iterested parties and interested members of the public regarding the imposition of import relief. Due to the time constraints of a section 406 case, briefs or comments must be succinct and presented as early as possible, in no event later than 12:00 noon, Tuesday, June 30, 1987. Twenty (20) copies of any brief or comment must be filed in conformity with 15 CFR Part 2003 with the Secretary, Trade Policy Staff Commitee, Room 521, Office of the USTR, 600 17th Street NW., Washington, DC, 20506. Any information to be treated as "business confidential" must be so marked on the first page and on each succeeding page, and be accompanied by a non-confidential summary thereof.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Do. 87-13570 Field 6-12-87; 8:45 am]

BILLING CODE 319-01-M

PENSION BENEFIT GUARANTY CORPORATION

Collection of Information Requirement Submitted for OMB review

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of collection of information requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act and its implementing regulations, agencies are required to submit a collection of information requirement to OMB for review and approval and to publish a notice in the **Federal Register** notifying

the public of such submission. The effect of this notice is to advise the public that the PBGC has requested OMB approval of an amendment to a previously approved collection of information requirement that applies to plan sponsors of multiemployer plans that have terminated by mass withdrawal.

ADDRESSES: All written comments should be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3201 New Executive Office Building, Washington, DC 20503. The proposed collection of information requirement will be available for public inspection in the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Manager, Regulations Division, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. The Act vests the Office of Management and Budget ("OMB") with regulatory responsibility over these burdens, and OMB has promulgated rules on the clearance of collections of information by Federal agencies.

The collection of information requirement in the PBGC's regulation on Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal (29 CFR Part 2675) was approved by OMB under control number 1212–0032. The PBGC is in the process of revising that regulation, broadening its applicability so that it deals with all aspects of the administration of mass-withdrawal-terminated plans (proposed revision published at 51 FR 24536 (July 7, 1986)). In so doing, the PBGC has expanded the regulation's collection of information requirement. The PBGC has, therefore, sought approval by OMB of this revised collection of information requirement as set forth in the proposed regulation.

Issued at Washington, DC, this 8th day of June, 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87–13535 Filed 6–12–87; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–24556; File Nos. SR–Amex–84–8, SR–Amex–87–16, SR–CBOE–85–25, SR–CBOE–87–26]

Self-Regulatory Organizations; American Stock Exchange, Inc., Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Changes and Granting Accelerated Approval to Proposed Rule Changes

On March 8, 1984, and June 25, 1985, respectively, the American Stock Exchange, Inc. ("Amex") and the Chicago Board Options Exchange, Incorporated ("CBOE") submitted to the Securities and Exchange Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 [2] thereunder, proposals to increase position limits for broad-based index options.[3]

The proposed rule changes were noticed in Securities Exchange Act Release Nos. 20546 (May 9, 1984) and 22305, (August 9, 1985), 49 FR 20965 (May 17, 1984) and 50 FR 33137 (August 16, 1985), respectively. One comment was received with respect to the proposed rule changes.[4]

1. Introduction

The CBOE proposed rule change would increase position limits in broad-based stock index options from the current limit of 15,000 contracts (approximately $442 million for the CBOE's Standard and Poors 500 ("SPX") Index option at current index value) on one side of the market to 25,000 contracts (approximately $737 million for SPX options) on the same side of the market, with no more than 15,000 of such contracts in the nearest expiration month.[5] The Amex proposal would increase, to identical levels, position limits in its Institutional Index Option ("XII").[6] The Amex also proposes a proportional increase in position limits for its 20 stock index, the Major Market Index option ("XMI"), from 10,000 contracts (approximately $465 million at current index value) on the same side of the market to 17,000 contracts (approximately $790.5 million at current index value) on the same side of the market with no more than 10,000 contracts in the nearest expiration month.[7]

II. Discussion

Broad based stock index option position limits are designed, in part, to prevent disruption of the markets in underlying securities and to reduce the potential for manipulation of index values.[8] Because the products are cash settled and are comprised of a minimum of twenty diversified securities, however, larger positions than are permitted for individual options are unlikely to disrupt the markets in the underlying securities. Similarly, broad-based index options also have not been viewed as being as readily susceptible to manipulation as individual options. The Commission does not believe that position limit increases (with the present limits retained for the near-term expiring month) to the levels proposed by the Amex and CBOE will increase index products' susceptibility to manipulation or increase the potential for disruption in the markets for the underlying securities.[9] In this connection, the

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1985).

[3] The Exchanges recently submitted further rule changes to clarify their rules on broad-based index option exercise limits. The CBOE submitted SR–CBOE–87–26 on May 27, 1987 and the Amex submitted SR–Amex–87–16 on June 4, 1987.

[4] Letter from William B. Marcus, Donaldson, Lufkin and Jenrette, Inc., to Secretary, Securities and Exchange Commission, dated October 4, 1985, supporting the proposed rule changes.

[5] The same increase in contracts will apply to the Standard and Poor's 100 Index ("OEX") option.

[6] The current Amex filing is amendment No. 4 to File No. SR–Amex–84–8. The current CBOE filing is amendment No. 1 to File No. SR–CBOE–85–25.

[7] The CBOE and Amex submitted SR–CBOE–87–26 and SR–Amex–87–16 to clarify that they will retain index option exercise limits at current levels which will not exceed the number of contracts that may be held in the near term, expiration month. Accordingly, no more than 15,000 contracts (10,000 for XMI) may be exercised in any index option over any five day period.

[8] *See* Securities Exchange Act Release No. 19264 (November 22, 1982) 47 FR 53981 at 53984 (November 30, 1982).

[9] As originally adopted, the index option position limits were based on the dollar value of the index positions ($300 million) to evaluate the potential impact the position might have on trading activity. This dollar amount approximately equalled 15,000 contracts for OEX and 10,000 contracts for XMI. The Commission staff discussed with the staff of the Amex and CBOE the possibility of reverting to a uniform dollar amount for out-month position limits (*e.g.*, $750 million). It was believed, however, that in view of fluctuating index values it was more practicable to continue to administer position limits based on the absolute number of contracts held. Therefore, the exchanges have proposed proportionate increases which maintain approximate parity in dollar amounts.

Commission notes that the increases will raise positions significantly in only the mid-term and far-term series.

The CBOE and Amex proposals reflect a conservative and studied expansion of position limits for broad-based stock index options. The Commission believes that the proposed increases will enable market-makers on the floor of these exchanges to provide more liquidity in mid-term and far-term series and will better accommodate the hedging needs of institutional investors. The Commission anticipates that, because the proposed increases primarily relate only to non-expiring contract months, they will not aggravate stock market volatility.[10]

Since the introduction of index-related derivative products, their use by institutions as hedging vehicles has increased substantially. Index products allow institutions to hedge the risks associated with holding diversified equity portfolios. Currently, some institutions utilize a variety of index option products and strategies, such as the purchase of protective index puts to hedge diversified equity portfolio (market) risk.[11] Institutions, however, are generally constrained in their ability to hedge large portfolios with index options by current position limits. As a result, many utilize financially equivalent index futures products to the competitive disadvantage of the options exchanges.[12] Increases in position limits such as those proposed by the exchanges provide institutions with a broader range of choice in their use of index products, and will place index options on a more equal position with index futures products.

Increases in position limits also will benefit market-makers who, in attempting to accommodate large customer and institutional orders, are consistently at or near existing limits. The CBOE notes that in some instances it has been necessary to grant OEX market-makers exemptions from existing position limits. Increased limits will allow OEX market-makers to provide greater depth and liquidity to public and institutional customers, especially in the mid-term and far-term series.

Finally, the proposed increases would raise position limits only moderately. The Commission believes that the increase to 25,000 (17,000 for the Amex's XMI option) is a responsible approach that will encourage institutions to use index option products but will not result in an excessive increase in the number of positions held by any investor. The exchanges will be able to monitor the effects of these increases before considering further expansions.

III. Conclusion

For the above reasons, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

The exchanges have requested that Files Nos. SR–Amex–87–16 and SR–CBOE–87–26 (retaining exercise limits at current levels) be given accelerated effectiveness pursuant to section 19(b)(2) of the Act because the proposals merely clarify that exercise limits will remain at current levels.

The Commission finds good cause for approving SR–Amex–87–16 and SR–CBOE–87–26 prior to the thirtieth day after the date of publication of notice of filing thereof because the proposals do not change current exercise limits, but clarify for investors that exercise limits will not exceed the number of contracts that may be held in the near-term month thereby decreasing the likelihood of investor confusion and helping in the maintenance of fair and orderly markets.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 5, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–13556 Filed 6–12–87; 8:45 am]

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[10] The stock market has experienced short term volatility related to the unwinding of stock-index arbitrate positions at quarterly expirations when index options, futures and individual options expire simulanteously (so-called "triple-witching" expirations) and also at some monthly expirations of index options and futures.

In addition, the stock market has experienced increased volatility on certain non-expiration days. For example, on September 11 and 12, 1986, the Dow Jones Industrial Average ("Dow") dropped 120.73 points. Similarly, on January 23, 1987, the Dow experienced an intra-day move of 115 points. The Commission's study of trading on September 11 and 12 indicated that the majority of index arbitrage positions used the near-term index product. *See,* "The Role of Index-Related Trading in the Market Decline of September 11 and 12, 1986" Division of Market Regulation, (March 1987).

Of course, the larger positions in the out-months should result, as a practical matter, in some incremental increase in the size of positions actually held in the expiring month. The CBOE has represented, however, that it does not expect the size of the increase to be significant. *See* letter from Frederick M. Kreiger, Associate General Counsel, CBOE, to Brandon Becker, Associate Director, Division of Market Regulation, dated March 18, 1987.

[11] A protective put strategy entails purchasing index puts as a hedge against a diversified long equity position. In a declining market, the risk of losses in the equities may be offset by purchasing put options which increase in cash value as the overall market declines.

[12] Largely because of hedging exemptions in the futures markets, institutions are able to offset much larger equity positions there than they currently might using index options. There are, however, a variety of reasons unrelated to position limits that may account for institutions utilizing index futures products as hedging vehicles more extensively than they use index options.

[Release No. IC–15787; 812–6411]

Allied Capital Corporation et al., Application for Exemption

June 9, 1987.

AGENCY: Securities and Exchange Commission ("SEC")

ACTION: Notice of application for an exemption and an order permitting joint transactions under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT(S): Allied Capital Corporation, Allied Advisory Inc., Allied Management Partners, Allied Technology Partnership, Allied Investment Corporation, Allied Financial Corporation, Allied Venture Partnership, George C. Williams, David Gladstone, Jonathan J. Ledecky, and Brooks H. Browne.

RELEVANT 1940 ACT SECTIONS: Exemption requested under sections 6(c) and 17(b) from sections 12(d)(1) and 17(a), an pursuant to sections 6(c) and 17(d) and Rule 17d–1 for an order permitting joint transactions.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to organize and operate Allied Technology Partnership and to permit certain co-investments by the Applicants.

FILING DATE. The application was filed on June 17, 1986, and amended on March 11, and June 1, 1987.

HEARING OR NOTIFICATION OF HEARING. If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on June 29, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request

notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Allied Capital Corporation, 1666 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Richard Pfordte at (202) 272–2811 or Special Counsel Karen L. Skidmore at (202) 272–3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Pubic Reference Branch in person or the SEC's commercial copier, (800) 231–3782 (in Maryland (301) 258–4300).

Applicants' Representations

1. Allied Capital Corporation ("Allied") is a closed-end, internally managed investment company registered under the 1940 Act. Allied Advisory, Inc. ("Advisory"), a District of Columbia corporation, is a wholly-owned subsidiary of Allied. Allied Management Partners ("Management") is a District of Columbia limited partnership of which Advisory is the general partner. Allied Technology Partnership ("Technology") and Allied Venture Partnership ("Venture") are District of Columbia limited partnerships of which management is the general partner. George C. Williams, ("Williams"), David Gladstone ("Gladstone"), Jonathan J. Ledecky ("Ledecky"), and Brooks H. Browne ("Browne") ("Individual Applications") are officers of Allied.

2. Allied is a holding company with over 95% of its assets consisting of all of the outstanding capital stock of four subsidiaries, each of which is registered under the 1940 Act as a closed-end management investment company, and two of which, Allied Investment Corporation and Allied Financial Corporation (the "SBIC Subsidiaries") are licensed by the Small Business Administration as small business investment companies and are engaged in venture capital investment. Allied and the SBIC subsidiaries are sometimes referred to below together as "Allied" or "Allied Capital."

3. The only substantial asset of Advisory is a $198,700 investment in the general partner interest of Management, which functions as the general partner of Allied Venture Partnership ("Venture"), a District of Columbia limited partnership. Venture's limited partners are 21 institutional and other accredited investors who made a capital contribution aggregating $39,340,000 to Venture including, to the extent of a capital commitment of $1,090,000, a general partnership the partners of which are certain directors and officers, including the Individual Applicants, of Allied. The limited partners of Management will be Williams, Gladstone and Ledecky, who are respectively the Chairman, the President and a Senior Vice President of Allied, the SBIC Subsidiaries and Advisory, and who have invested an aggregate of $198,700 as limited partners of Management.

4. Venture was organized and commenced operations pursuant to an order of the Commission on September 17, 1985 (IC Rel. No. 14725). Management, as Venture's general partner, paid in its entire $397,400 committed capital contribution upon the formation of Venture, and Venture's limited partners at that time paid one-third of their committed capital contributions. Another one-third of the committed capital contributions was paid on May 6, 1987. The limited partnershp agreement of Venture provides that (i) its policy is to invest at least 80% of its assets in securities in which Allied (including the SBIC Subsidiaries) is also investing; (ii) Allied's Board of Directors will determine in the first instance the extent to which Allied and Venture combined will participate in any investment opportunity originated by Advisory and the extent to which participation therein will be offered to others, or the extent to which Allied and Venture combined will participate in investment opportunities originated by others in which Allied is invited to participate; (iii) in principle (subject to certain defined exceptions), equity investments will be allocated one-half to Venture and one-half to Allied; and (iv) until all Venture's limited partners' capital contributions have been paid in and Venture is fully invested, Allied may not, without the consent of Venture's limited partners owning at least 60% of the limited partner interests in Venture, organize or participate in any other similar entity. Because Venture's limited partners' capital contributions have not all been paid and Venture is not fully invested, the consent of Venture's limited partners is necessary to permit Allied to co-invest with Technology as set forth below. Allied states that such consent has been obtained, provided that the Allied-Venture co-investment rules remain unchanged, such that Technology is permitted to participate in investment opportunities originated by or referred to Allied only to the extent that Allied's Board of Directors makes them otherwise available for syndication. Allied's Board may make opportunities available for syndication only to the extent that there has been allocated to both Allied and Venture such amounts as the Board considered prudent to allocate to them.

5. The Trustees ("Trustees") of The Sheet Metal Workers National Pension Fund ("Pension Fund"), a labor union pension fund, commissioned a study by the Mitre Corporation to identify fields in which, consistent with investment return considerations, Pension Fund assets could be invested in companies that develop technologies which support or potentially could support or create employment opportunities for sheet metal workers ("Mitre Report"). In response to the Mitre Report, the Trustees approached Potomac Asset Management, Inc. ("PAM", a registered investment adviser, to devleop a program to implement the Mitre Report's recommendations. Through PAM, one of the Principals of which is Mr. Robert E. Long ("Long"), a member of Allied's Board of Directors, the Trustees also entered into discussions with Allied. On October 31, 1985, the Trustees, pursuant to an investment managment agreement, placed the sum of $10,000,000 under PAM's management. PAM divided the managed assets into two subaccounts: Subaccount A was to be managed by PAM directly and to be invested generally in marketable securities; Subaccount B was to be committed over a period of three years towards the purchase of limited partnership interests in a venture capital limited partnership having certain specified characteristics and the general partner of which would be a venture capital entity approved by the Trustees. Allied, or any of its subsidiaries with which williams and Gladstone were associated in a managerial capacity, were approved by the Trustees. Accordingly, PAM requested Allied to participate in implementation of the Subaccount B investment.

6. Applicants and PAM organized Technology with Management, as the general partner, contributing 1% of Technology's capital. PAM, as investment manager for The Pension Fund and a limited partner of Technology, will contribute to Technology, over a three year period, initially $5,000,000. After the initial $5,000,000 is fully invested, the Trustees may, subject to the consent of Allied, invest up to two additional $5,000,000 sums in Technology; there is no commitment on the part of the Trustees or Allied for further investment. The limited partnership agreement of Technology permits transfer of the

limited partnership interest under certain circumstances, but only with the consent of the general partner. Allied will not permit Management to give such consent without an order by the Commission.

7. The general partner of Management, Advisory, participates 50% in the capital gains and losses of Management. The other 50% participation in Management is represented by limited partner interests made available to Williams, Gladstone and Ledecky, Allied officers who are primarily responsible for Allied's venture capital operations. For the purpose of Mangement's participation as general partner in Technology, Management's limited partner interests will be restructured so that the limited partner interests held by Williams, Gladstone and Ledecky will be designated as "Series A limited partner interests," which will continue to share in the income and profits that Management derives from its central partner interest in Venture. "Series B limited partner interests" will participate in the aggregate in 50% of the capital invested by Management in, and of the income, profits and losses derived by Management from, Technology. Of that 50% interest, 30% will be allocated to Williams, 30% to Gladstone, 30% to Ledecky and 10% to Browne, a Senior Vice President of Allied.

Applicants state that the structure of Management and its participation as the general partner in Technology has been arranged so that any potential conflict of interest that might arise out of the different proportions in which the Individual Applicants will participate in the Series A and Series B limited partner interests has been resolved in favor Allied Capital and Venture. Allied Capital and Venture will have absolute priority of access to the investment opportunities of the co-investment program and, Williams and Gladstone, who will have an influence on the allocation opportunities, will have a much greater personal financial interest in the profits of Venture rather than Technology.

8. Advisory will also act as Technology's investment adviser and, as such, will be paid, quarterly, an advisory fee at the rate of 2.5% per annum of the aggregate capital contributed to Technology by its limited partner, PAM. Allied will invest $25,255 (50% of 1% pof $5,050,510) of additional capital into Advisory (plus possibly two additional investments of $25,255 each, if the parties agree to additional investments by PAM) in order that Advisory may make its capital contribution to Management, and in turn, Management may make its capital contribution to Technology.

9. The Techology partnership agreement provides that all net investment income will be allocated and distributed to the partners at least annually and in accordance with their capital contributions actually paid in (99% to the limited partners and 1% to the general partner once Technology is fully capitalized); cash proceeds from the disposition of investments will be distributed in accordance with an order of priority that will permit the limited partner to recover its investment before any distribution of proceeds from the disposition of investments will be made to the general partner. Thereafter, disposition proceeds will be distributed 80% to the limited partner and 20% to the general partner. Net gains from the disposition of investments in any year will be allocated to the accounts of the partners pro rata to their capital contributions to the extent that the capital account of any partner is, or as a result of that year's distributions would become, negative, and thereafter in the same proportions as are made in that year's distributions. Any net realized losses will be allocated to the accounts of the partners pro rata to their capital contributions to the extent that the capital account of any partner is, after giving effect to that year's distributions, positive, and thereafter to the general partner. Technology will have one or two advisers, one of whom will be an executive of PAM (other than Long) and the other may be a representative of the Trustees. The functions of the advisers will include the investments made and disposed of by Technology.

10. Technology's investments will be similar to the investments made by Allied (including its SBIC Subsidiaries) and Venture. Applicants contemplate that Technology will in all cases co-participate in investments with Allied or Venture, and in most cases with both. The Board of Directors of Allied, which is identical in composition to the board of directors of Advisory, will have substantial discretion in the allocation of investment opportunities between Allied and Venture on the one hand, and Technology on the other, subject to the rules below.

11. Applicants will allocate investments between Allied and Venture and Technology in accordance with the following rules:

(i) The Board of Directors will determine in the first instance the extent to which Allied and Venture combined will participate in any investment opportunity originated by Advisory and the extent to which participations therein will be offered to others, or the extent to which Allied and Venture combined will participate in investment opportunities originated by others (who may include certain limited partners of Venture to the extent and under the circumstances permitted by an order of the Commission dated March 25, 1986 (IC Rel. No. 15013) ("1986 Order"), in which Allied is invited to participate. If a determination is made to offer participations to others (who may include certain limited partners of Venture pursuant to the 1985 Order), or that Allied and Venture combined will participate in an investment opportunity to an extent less than the entire amount as to which they are invited to participate, then, if the investment opportunity has the characteristics that would make it suitable for investment by Technology, a participation in such opportunity may be allocated to Technology;

(ii) Technology will not participate in any investment to an extent greater than what the general partner then considers to be a prudent limit for Technology's exposure in a single risk, and in no event more than 10% of the limited partner's capital contribution or of the aggregate value of Technology's assets, whichever is greater;

(iii) Investments will not be allocated to Technology after Technology has become fully invested;

(iv) Technology will not participate in an investment in an entity in which Allied or Venture, but not Technology, has previously invested without the approval of Technology's advisers;

(v) Technology's participation, including timing and price, shall be identical to the basis of participation of Allied and Venture. For this purpose, the payment of any reasonable fee to Advisory by any participant in the transaction other than Technology, Venture, Allied or any subsidiary of Allied, will not be considered as differentiating the basis of Technology's participation from that of Allied;

(vi) Allied and Venture, on the one hand, and Technology, on the other, will exercise any warrants, conversion privilege, or other rights to acquire equity securities of an issuer, or affiliate of an issuer, which were acquired by both Allied or Venture, on the one hand, and Technology, on the other, in a transaction in which they both participated, only at the same time and in amounts proportional to their respective holdings of such rights;

(vii) Allied or Venture, on the one hand, and Technology, on the other, will sell, exchange, or otherwise dispose of an interest in any security of a class

held by both, as a result of a transaction in which they both participated, only at the same time and for the same unit consideration and in amounts proportionate to their respective holdings of such securities, unless at the time of sale there exists a public trading market in the securities of such class and the sale by Allied, Venture or Technology, as the case may be, is made in such market.

Applicants represent that any decision to allocate an investment opportunity to Technology, to the extent as permitted by the foregoing rules, will be made by a majority of Allied's Board of Directors, including a majority of Directors who have no personal interest in Technology. Any decision to make any disposition of any security held by Allied, Venture and Technology, to the extent permitted by the foregoing rules, will be made by a majority of the Board of Allied, including a majority of Directors who have no personal interest in Venture or Technology.

12. The Board of Directors will, *inter alia*, record in its minutes and will preserve in its records, for such period as records are required to be maintained under section 31(a) of the 1940 Act, the basis on which it makes any decision to allocate any investment opportunity between Allied and Venture, on the one hand, and Technology, on the other, or to make any disposition of any security held by both.

Applicants' Legal Conclusions

1. Management and Technology may be considered to be investment companies for purposes of section 12(d)(1) of the 1940 Act; therefore, the acquisition by Advisory of its general partnership interest in Management and by Management of its general partnership interest in Technology may violate section 12(d)(1) of the 1940 Act. Accordingly, Applicants seek an exemption from section 12(d)(1), pursuant to section 6(c) of the 1940 Act, to permit Allied to invest $25,255 (and possibly two additional investments of $25,255 each) in the common shares of Advisory, for Advisory to invest such amount in the general partnership interest of Management, and for Management to invest $50,510 (and possibly two additional investments of $50,510 each) in the general partnership interest of Technology.

2. Applicants also request exemption from the provisions of section 17(a), pursuant to section 17(b) of the 1940 Act, to permit Allied to invest in Advisory, and pursuant to section 17(d) of the 1940 Act and Rule 17d–1 thereunder, for an order to permit certain joint transactions, including the advisory agreement between Advisory and Tehcnology, the investments by the Individual Applicants in Management, PAM's investment in a fiduciary capacity as limited partner in Technology, and the co-investments by Allied and Venture with Technology.

3. Under the terms and conditions proposed, Applicants believe it is appropriate to grant the requested order to permit the funding and operation of Technology as described in the application. Granting the requested exemptions will benefit shareholders because, in light of the profit potential for Allied compared with the small and limited risk to which it will be exposed, Applicants' proposal, including the advisory fee payable to Advisory and the profit allocation to Management, will be highly advantageous to those shareholders. Allied's risk of loss will be limited to its capital contribution of $25,055 out of Allied's consolidated assets of approximately $75,407,000. Allied's counsel has prepared for Allied an analysis of the liability exposure of Allied as a result of its transactions with Technology. For further discussion concerning this analysis, see the application. Management will share in certain profits of Technology disproportionately to its capital contribution, and Advisory will receive 50 percent of such profits. In summary, Allied's return on its small investment could be very substantial.

4. Applicants believe that permitting the Individual Applicants to purchase a 50 percent limited partnership interest in Management, on a basis exactly equal in monetary terms to the investment made by Advisory, and thus to share to the extent of 10 percent in the realized capital gains of Technology, is consistent with the policy and purposes of the 1940 Act. Any potential conflict of interest that might conceivably arise out of the different proportions in which the Individual Applicants will participate in the profits of Venture and those of Technology will be resolved in favor of Allied and Venture. With respect to the participation by allied, Applicants assert that the co-investment program between Allied, Venture and Technology on the one hand, and the participation by the Individual Applicants on the other, is consistent with the provisions, policies, and purposes of the 1940 Act, and that the extent of Allied's participation in the co-investment program is not on a basis different from or less advantageous than that of the other participants.

Applicants' Conditions

Applicants agree that representation number 11 of this notice regarding the participation by Allied, Venture and Technology may be made an express condition to the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–13602 Filed 6–12–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15786; 812–6554]

Bear Stearns Secured Investors Inc.; Application

June 9, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for amendment to existing order under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Bear Stearns Secured Investors Inc., on behalf of itself and all owner trusts (each, a "Trust") it may establish in the future (Applicant and the Trusts are referred to collectivley as the "Issuers").

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the Act.

Summary of Application: Applicant filed an application on December 8, 1986, and amendments on February 6 and March 2, 1987 ("Original Application"), for an order conditionally exemptiing the Issuers from all provisions of the 1940 Act to permit them to issue and sell one or more series of fixed rate bonds collateralized by Mortgage Collateral (as defined below). On April 13, 1987, the SEC issued an order granting the requested relief, subject to certain conditions (Investment Co. Act Release No. 15678) ("Existing Order"). Applicant has further amended the Original Application to permit the Issuers to issue series of bonds containing one or more classes of variable or floating interest rate bonds ("Floating Rate Bonds").

Filing Date: The Original Application was filed on December 8, 1986, and amended on February 6, March 2, and March 18, 1987. Thereafter, Applicant filed Amendment No. 4 to the Original Application on April 30, 1987. The Applicant aiso submitted a letter dated June 2, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a

hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on July 1, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington DC 20549. Bear Stearns Secured Investors Inc., 1601 Elm Street, Dallas, Texas 75201.

FOR FURTHER INFORMATION CONTACT: Denis R. Molleur, Staff Attorney (202) 272-2363 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a direct, wholly-owned, finance subsidiary of The Bear Stearns Companies Inc., which in turn is the parent of Bear, Stearns & Co. Inc. Under the Existing Order, Applicant, a Delaware corporation, engages in asset-backed financing, including issuing and selling, or establishing separate trusts to issue and sell, series of fixed rate bonds, and purchasing owning and selling to such trusts Mortgage Certificates and other collateral (collectively, "Mortgage Collateral") and pledging such Mortgage Collateral to a Trustee as security for each series of fixed rate Bonds.[1]

Applicant will not engage in any business or investment activities unrelated to such purpose. Applicant now proposes to issue Floating Rate Bonds, subject to the conditions contained in the Existing Order and certain additional terms and conditions as described below.

2. Issuers that are Trusts will be created pursuant to a Trust Agreement between Applicant, acting as depositor, and a bank, trust company or other fiduciary, acting as owner trustee (the "Owner Trustee"). Applicant contemplates that the Owner Trustee will enter into a Management Agreement with respect to each Trust whereby Bear, Stearns & Co. Inc., another affiliate of Applicant or an independent company will provide certain management services in connection with the issuance of the fixed or Floating Rate Bonds.

3. Each series of fixed or Floating Rate Bonds will be issued by the Issuer pursuant to an indenture between an independent trustee (the "Trustee") and the Issuer (that is, the Applicant in the case of a corporate Issuer and the Owner Trustee acting on behalf of a Trust Issuer), as supplemented by one or more supplemental indentures for such series (the "Indenture"). The Indenture will be qualified under the Trust Indenture Act of 1939, unless an appropriate exemption is available.

4. Each series of bonds to be issued may contain one or more classes of Floating Rate Bonds whch may be structured in a variety of ways. With regard to each series of bonds to be issued by the Applicant, or any Trust, that will contain one or more classes of Floating Rate Bonds, the Indenture for each such series will specify: (1) That the interest rate on any class of Floating Rate Bonds will be adjusted at the beginning of each variable interest period, (2) that the interest rate will generally be some fraction of one percent per annum above the index set forth in the Indenture (often this index will be the arithmetic mean of London interbank offered quotations for three/month Eurodollar deposits prevailing on the determination date for such interest rate, or, in the case of an inverse-Floating Rate Bond a set rate of interest, less some multiple based on such index) (3) the maximum of interest (the "interest rate cap") that will be payable on such Bonds (or the minimum rate of interest, in the case of an inverse-Floating Rate Bond) and (4) the date and time at which each variable interest rate will be determined.

5. Any series of bonds containing one or more classes of Floating Rate Bonds will be structured with reference to the interest rate caps for that particular sries, insuring that, at the time of issuance of such series, the cash flow on the Mortgage Certificates, plus the reinvestment earnings thereon at the assumed reinvestment rate specified in the Indenture, together with the other collateral pledged to secure such series, as described in the application, will be sufficient to pay the principal of and interest on the Floating Rate Bonds, even if the interest rate on any class of Floating Rate Bonds climbed to the interest rate cap in the first interest period and remained constant throughout the life of the Bonds.

6. As stated in the letter dated June 2, 1987, in the case of a Series of Bonds that contains a class or classes of Floating Rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the adjustable or floating interest rate Bonds. Procedures that have been indentified to date for achieving this result include the use of (i) interest rate caps for the Floating Rate Bonds; (ii) "inverse" Floating Rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" floating interest rate Bonds); (iii) floating rate collateral (such as adjustable rate FNMA Certificates) pledged to secure such Bonds; (iv) interest rate swap agreements (under which the Trusts issuing the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Bonds in the floating interest rate class, in exchange for receiving corresponding periodic payments from the counterparty at a floating rate of interest based on the same principal amount) and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the floating interest rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Staff of Investment Management (the "Staff") notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the

[1] Each series of fixed or Floating Rate Bonds will be separately secured by collateral consisting primarily of mortgage pass-through certificates which are fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA Certificates"), Mortgage Participation Certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), and/or Guaranteed Mortgage Pass-Through Certificates issued and guaranteed by the Federal National Mortgage Association ("FNMA Certificates"); (GNMA Certificates, FHLMC Certificates and FNMA Certificates collectively are referred to as "Mortgage Certificates"). Mortgage Certificates pledged to secure a series of Bonds may or may not be "partial pool" Mortgage Certificates. Applicant anticipates the Mortgage Certificates securing each series of Bonds will be acquired by the Issuer thereof using the net proceeds of the sale of such Bonds. In addition to the Mortgage Certificates directly securing such Bonds, a series will have additional collateral which will include a collection account, debt service fund, or other reserve funds as specified in the prospectus supplement for a particular series.

appropriateness of their use. In all cases, these mechanisms will be adquate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

7. Whatever method is used for a particular series, the collateral structure for each series of Bonds will be reviewed independently by the nationally recognized statistical rating agency or agencies rating the Bonds (as well as by the independent accountants for the Issuer) in order to insure, for the appropriate rating, that the collateral is sufficient to meet all scheduled payments, as stated above.

Applicant's Legal Conclusions

1. The requested order is necessary and appropriate in the public interest because: (a) The Issuers should not be deemed to be entities to which the provisions of the Act were intended to be applied: (b) the Issuers may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the Act are not removed; (c) the Issuers' activities are intended to serve a recognized and critical public need; (d) graning the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act and thereafter by the Trustee representing their interests under the Indenture; and (e) the Residual Interests will be held entirely by the Applicant or offered only to a limited number of sophisticated institutional investors through private placements.

Applicant's Conditions

In addition to the conditions in the Existing Order, Applicant agrees that the requested order may be expressly conditioned upon the following:

Conditions Relating to Floating Rate Bonds

1. Each class of Floating Rate Bonds will have a set maximum interest rate.

2. At the time of the acquisition of the collateral by the Applicant or the deposit of the collateral with the issuing Trust, as the case may be, as well as during the life of the bonds, the scheduled payments of principal and interest to be recieved by the Trustee on all Mortgage Certificates pledged to secure the Bonds, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the Application) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each class of Floating Rate Bonds. Such collateral will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13603 Filed 6-2-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15784; 812-6697]

Butcher Venture Partners I, L.P.; Notice of Application

June 9, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Butcher Venture Partners I, L.P. (the "Partnership").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 2(a)(19).

Summary of Application: The Partnership seeks an order determining that the Independent General Partners (as defined below) of the Partnership are not interested persons, within the meaning of section 2(a)(19), of the Partnership solely by reason of being general partners of the Partnership and co-partners with Butcher Venture Management Company ("Managing General Partner").

Filing Date: The application was filed on April 29, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on June 29, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Partnership with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington DC 20549. Partnership, 211 South Broad Street, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Sherry A. Hutchins, Staff Attorney (202) 272-2799 or Brion R. Thompson, Special Counsel (202) 272-3016, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300)).

Applicant's Representations

1. The Partnership, a limited partnership organized under Delaware law on November 17, 1986, will be operated in accordance with the terms and provisions of its Amended and Restated Certificate and Agreement of Limited Partnership (the "Partnership Agreement"), and has elected to become a business development company pursuant to section 54(a) of the 1940 Act. Thus, the Partnership is subject to sections 55 through 65 of the 1940 Act and to those sections made applicable to business development companies by section 59 of the 1940 Act. The investment objective of the Partnership is to seek long-term capital appreciation by making venture capital investments. The Partnership has been organized as a limited partnership because business development companies do not currently qualify for the "pass through" tax treatment afforded regulated investment companies under Subchapter M of the Internal Revenue Code. The Partnership will have a duration of not more than 10 years.

2. The Partnership filed a Registration Statement on Form N-2 under the Securities Act of 1933, as amended, (File No. 33-11747) with respect to a public offering of up to 10,000 units of limited partnership interest (the "Units"). The Registration Statement was declared effective on April 23, 1987. The proceeds of the offering will be invested in venture capital investments over a period of two to three years. Each of these investments will be liquidated once it reaches a state of maturity when disposition can be considered, which typically occurs within four to seven years of the date of investment. The proceeds of liquidation will not be reinvested except in limited circumstances but will be distributed to the partners.

3. The Managing General Partner, a Delaware corportion, will be responsible for the management of the Partnership's venture capital investments and, pursuant to a Management Agreement, will also peform the management and administrative services necessary for the operation of the Partnership. In accordance with section 15(c) of the 1940 Act, the Management Agreement will be approved by the Independent General Partners of the Partnership. The Managing General Partner will be a registered investment adviser under the Investment Advisers Act of 1940. The Managing General Partner is affiliated with Butcher & Singer Inc., a registered broker-dealer which will be the Selling Agent for the Units on a "best efforts" basis.

4. The General Partners of the Partnership consist of four Individual General Partners (three Independent General Partners defined to be individuals who are not "interested persons" of the Partnership within the meaning of section 2(a)(19) of the 1940 Act and one individual affiliated with Managing General Partner), and the Managing General Partner. The Partnership will be managed solely by the Individual General Partners except that the Managing General Partner, subject to the guidance and supervision of the Individual General Partners, is responsible for the management of the Partnership's venture capital investments and the admission of additional or substituted Limited Partners to the Partnership. The Individual General Partners will perform the same functions as directors of a corporation, and the Independent General Partners will assume the responsibilities and obligations imposed by the 1940 Act and the regulations thereunder on disinterested directors of a business development company in corporate form.

5. A majority of the General Partners of the Partnership will at all times be Independent General Partners who are not "interested persons" of the Partnership. The Partnership Agreement provides that the Individual General Partners may be removed either (i) for cause by the action of two-thirds of the remaining Individual General Partners, (ii) by failure to be re-elected by the Limited Partners or (iii) with the consent of a majority in interest of the Limited Partners. The Managing General Partner may be removed either (i) by a majority of the Independent General Partners, (ii) by failure to be re-elected by the Limited Partners or (iii) by the vote of a majority in interest of the Limited Partners. The Managing General Partner undertakes that it will not resign or withdraw from the Partnership unless certain specified procedures are followed and a successor Managing General Partner has been appointed and consented to by the Limited Partners.

6. The Partnership's Limited Partners shall have no right to control or otherwise participate in the management of the Partnership's business, but may exercise certain rights and powers of a Limited Partner under the Partnership Agreement, including voting rights and giving consents and approvals. The Partnership does not presently have an insurance policy that would provide coverage to persons who become Limited Partners. The General Partners have considered the possibility of obtaining errors and omissions insurance. The Partnership undertakes that it will periodically review the qustion of the appropriateness of obtaining an errors and omissions insurance policy.

Applicant's Legal Conclusions

1. The Independent General Partners of the Partnership are "interested persons" of the Partnership within the meaning of section 2(a)(19) of the 1940 Act solely by virtue of being partners of the Partnership and co-partners with the Managing General Partner, which makes them "affiliated persons" of the Partnership within the meaning of section 2(a)(3)(D) of the 1940 Act. The Partnership requests that it and its Independent General Partners be exempted from the provisions of section 2(a)(19) to the extent the Independent General Partners would otherwise be deemed to be interested persons of the Partnership solely because such Independent General Partners are General Partners of the Partnership and co-partners with the Managing General Partner.

2. Section 2(a)(19) excludes from the definition of interested person of an investment company those individuals who would be interested persons solely because they are directors of an investment company; there is no equivalent exception for general partners. The Partnership has been structured so that the Independent General Partners are the functional equivalents of the disinterested directors of an incorporated investment company. The Partnership submits that it is consistent with the purposes fairly intended by the policy and provisions of the 1940 Act to grant the requested exemption from the provisions of section 2(a)(19).

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13604 Filed 6-12-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15780; 812-5548]

Lambert Brussels Associates Limited Partnership et al.; Application

June 8, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an amended order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Lambert Brussels Associates Limited Partnership (the successor in interest to The Lambert Brussels Corporation ("LBC") on behalf of itself and all future wholly-owned subsidiaries.

Relevant 1940 Act Section: Exemption requested under section 6(c) from all provisions.

Summary of Application: Applicant seeks to amend existing orders (Investment Company Act Rel. No. 13391, July 18, 1983, and Investment Company Act Rel. No. 14296, December 31, 1984) ("Existing Orders") to exempt Applicant and all future wholly-owned subsidiaries from all provisions of the 1940 Act.

Filing Dates: The application was filed on March 5, 1987, and amended on May 15, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on June 29, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Debevoise & Plimpton, 875 Third Avenue, New York, New York 10022, Attn: Deborah F. Stiles, Esq.

FOR FURTHER INFORMATION CONTACT: Victor R Siclari, Staff Attorney (202) 272-3037 or Brion R. Thompson, Special

Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. According to the Existing Orders, Applicant's predecessor was a Delaware corporation through which a small group of financial institutions—predominately European—proposed to acquire and manage interest in United States companies and real estate. Pursuant to the Existing Orders, the SEC exempted LBC (formerly The New LBC Corporation), The Lambert Brussels Investment Corporation ("LBIC"), The Lambert Brussels Financial Coporation ("LBFC"), The Lambert Brussels Holding Corporation ("LBHC"), The Lambert Brussels Real Etate Corporation ("LBREC") and all future wholly-owned subsidiaries of the above-listed corporations from all provisions of the 1940 Act, subject to certain undertakings to which LBC, LBIC, LBFC, LBHC and LBREC, for themselves and for such future wholly-owned subsidiaries consented, and which are set forth in Investment Company Act Release No. 14270, dated December 7, 1984.

2. Toward the end of 1986, the board of directors and shareholders of LBC resolved to put into effect a restructuring plan for part of the LBC group of companies. In accordance with the restructuring plan, Applicant, a Bermuda limited partnership, was established by the shareholders of LBC; such shareholders contributed their shares of LBC capital stock to Applicant; each of LBHC, LBIC and LBC was dissolved pursuant to section 275 of the Delaware General Corporation Law; and all of each such corporation's assets were transferred to its shareholders in complete liquidation of such corporation. Such restructuring plan having been accomplished, Applicant now holds all of the assets prevously held by LBC, including all of the issued and outstanding shares of capital stock of LBREC and LBFC.

3. The present structure of the LBC group more clearly indicates that there are no public United States investor interests in the Applicant. The assets previously held by LBC, LBIC and LBHC are now held by Applicant, an off-shore vehicle, which does not intend to transact business in the United States. The partners of Applicant are identical to the shareholders of LBC immediately prior to the dissolution of LBC, none of which are United States citizens, residents or corporations. Group Bruxelles Lambert, S.A., a Belgian holding company which, with its affiliates, was the controlling shareholder of LBC, will continue, with its affiliates, to control a majority of the partnership interests of Applicant and the management of the affairs of Applicant. Applicant has no present intention of selling any partnership interests to any United States investor, including any employee of the group.

Applicant's Legal Conclusions

1. The extension to Applicant and all of its future wholly-owned subsidiaries of the exemption previously granted under the Existing Orders is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. The restructuring of the LBC group of companies in no way affects the justifications set forth in Investment Company Act Release No. 13339, dated June 20, 1983, for the grant of the exemption from the 1940 Act pursuant to the Existing Orders. In view of the acceptance by the Applicant and all of its future wholly-owned subsidiaries of the conditions set forth below, the level of investment permitted of United States persons in Applicant and all future wholly-owned subsidiaries will be no greater than that already permitted under the Existing Orders and will in actuality be most likely less.

Applicant's Conditions

If the requested order is granted, Applicant and all of its future wholly-owned subsidiaries agree to the following conditions. As used herein, the term "Wholly-Owned Subsidiary" means a corporation all the capital stock of which is owned by any combination of the Applicant, a Wholly-Owned Subsidiary and (to the extent of not more than 20% of the equity) any employee of Applicant or a Wholly-Owned Subsidiary.

1. No more than 25 United States persons, including both outside investors and employees, will be partners of Applicant or shareholders of the Wholly-Owned Subsidiaries (taken as a whole) at any given time. For the purpose of calculating the number of United States partners or shareholders, as the case may be, the attribution rules under section 3(c)(1)(A) of the 1940 Act shall apply.

2. Neither Applicant nor any Wholly-Owned Subsidiary will issue partnership interests or shares, as the case may be, to any United States investor (other than any employee) unless such partnership interests or shares are valued at no less than $2 million, and each such investor will agree that any transfer to another United States investor will either include (i) all such patnership interests or shares, or (ii) partnership interests or shares valued at no less than $2 million. Any United States transferee will enter into a similar agreement.

3. United States citizens and residents will not hold more than a 10% partnership or equity interest in Applicant and all Wholly-Owned Subsidiaries on a consolidated basis.

4. Non-United States partners in Applicant and non-United States shareholders in any Wholly-Owned Subsidiary will be prohibited from transferring their partnership interests or shares, as the case may be, to United States residents or citizens.

5. Employees of Applicant or any Wholly-Owned Subsidiary will be prohibited from transferring their partnership interests or shares, as the case may be, to any person other than Applicant or any Wholly-Owned Subsidiary.

6. Applicant will notify the SEC within ten days of the sale of any of its partnership interests or any of the shares of any Wholly-Owned Subsidiary to United States investors.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–13605 Filed 6–12–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15781; 812–6633]

Over-The-Counter Securities Fund, Inc.; Application

June 8, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an amended order under the Investment Company Act of 1940 ("1940 Act").

Applicant: Over-the-Counter Securities Fund, Inc.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 13(a)(2), 18(f)(1) and 22 (f) and (g), and permission for joint transactions under section 17(d) and Rule 17d–1 thereunder.

Summary of Application: Applicant seeks to amend an existing order permitting implementation of a deferred

compensation plan for disinterested directors which invests the deferred fees into Applicant's shares (Investment Company Act Release No. 13758, February 10, 1984) ("Existing Order") to now permit Applicant to implement a Shadow Plan as described below.

Filing Dates: The application was filed on February 17, 1987, and amended on May 27, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on June 29, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington DC 20549. Applicant, Suite 325, 510 Pennsylvania Avenue, P.O. Box 1537, Fort Washington, Pennsylvania 19034–1537.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney, (202) 272–3037 or Brion R. Thompson, Special Counsel, (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a Pennsylvania corporation registered under the 1940 Act as an open-end, diversified, management investment company. Applicant currently pays director's fees and expenses to each of its eight directors who are not interested persons of the Applicant within the meaning of section 2(a)(19) of the 1940 Act ("Disinterested Directors").

2. Pursuant to the Existing Order, Applicant adopted a deferred compensation plan (the "Plan") which permits a Disinterested Director to elect to defer receipt of his director's fees. Such election continues in effect during the year of election and each subsequent calendar year thereafter unless the Disinterested Director revokes such election. Amounts otherwise due as director's fees to any Disinterested Director who elects to participate in the Plan ("Deferred Fees") are invested in shares of the Applicant and set aside in a book reserve account established on Applicant's books. Any dividends and capital gains distributions paid upon such shares are invested in additional shares of Applicant and similarly credited to the account. Under the terms of the Plan, Applicant's obligation to make payments to the Disinterested Director on retirement, in recognition of the deferral of his fees, is to be based upon the value of the amounts of the Director's fees set aside for the participating Director's benefit including any dividends and distributions paid thereon that are reinvested.

3. The Plan was implemented in order to avoid the lessening or loss of social security benefits to which the Disinterested Director might otherwise be entitled and to enable such director to defer payment of income taxes on such Deferred Fees until retirement when the tax bracket of such director is expected to be lower than at present. As of December 31, 1986, the value of the Applicant's obligation under the Plan was $107,724.83.

4. Applicant proposes to amend the Plan by eliminating the requirement that Deferred Fees be actually invested in Applicant's shares and by converting the Plan into a "Shadow Plan." Under the Shadow Plan arrangement, a number of hypothetical or notional shares of Applicant equal in value to the amounts of the Deferred Fees would be credited to a memorandum account. Upon the declaration and payment of dividends and distributions by Applicant on its actual outstanding shares, a corresponding amount will be deemed declared and paid on the hypothetical shares in the memorandum account, and such amount will be deemed to be reinvested in an additional number of whole and fractional hypothetical shares and credited to the memorandum account. For purposes of determining the number of hypothetical shares to be credited to the memorandum account, the net asset value of a hypothetical share shall be exactly equal in amount to the net asset value of an actual share of Applicant outstanding at the time of crediting. Periodically, and in no event less than quarterly, the value of the whole and fractional hypothetical shares in the account will be measured against the value of a corresponding number of whole and fractional actual shares of Applicant, and if the value of the hypothetical shares in the account is greater than the value of the same number of actual shares of Applicant, the value of the memorandum account will be reduced proportionately; conversely, if the value of the hypothetical shares is less, then the value of the account will be increased proportionately.

Applicant's Legal Conclusions

1. An order pursuant to section 6(c) of the 1940 Act amending the Existing Order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Withholding of the Deferred Fees and the crediting of the sums to a memorandum account does not result in the creation of a "senior security" within the meaning of sections 18(f)(1) and 18(g), since the sums are fees to which the Disterested Directors are entitled as they accrue and would be payable to such Directors in the absence of the Plan. Also, the creation and maintenance of the Shadow Plan will have only a negligible effect on Applicant's assets, liabilities, net assets and per share net income; furthermore, the Shadow Plan will not increase the speculative character of Applicant's obligation to make payments to the participating Disinterested Director on retirement.

3. Since implementation of the Plan will not result in the issuance of senior securities, therefore, the evil which section 13(a)(2) was desired to protect against—changes in the fundamental policies of a company without shareholder approval—is not present.

4. There is no violation of the provisions of section 22(f), which prohibit restrictions on alienability of shares unless disclosed in the Applicant's registration statement, since the Disinterested Directors do not have a legal or beneficial interest of any kind, character or description in the hypothetical shares in the memorandum account. Rather, the Disininterested Directors are only general, unsecured creditors of the Applicant with respect to the present value of the Deferred Fees. However, the Plan will be modified to clearlay set forth that the Disinterested Directors' benefits are not transferrable, are included to benefit such Directors and, as such, will not adversely affect the interests of such Directors or of any of the Applicant's shareholders.

5. The value of the hypothetical shares are not issued for the participating Disinterested Directors' services in violation of section 22(g). There will be no dilution of the equity or voting power of the Applicant's public shareholders

because the hypothetical shares will be credited to the memorandum account for consideration (the Deferred Fees), the value of which is readily ascertainable and fixed as to amount. If the Disinterested Directors invested their fees in Applicant's shares, it could not be said that such shares were being issued for services.

6. The Plan does not involve joint transactions between the Applicant and the participating Disinterested Directors within the meaning of section 17(d) and Rule 17d–1 thereunder. The Plan does not possess the profit-sharing characteristics contemplated by prohibitions of the 1940 Act. In any case, Applicant's participation in the Plan is not less advantageous than the Disinterested Director's participation, and the Plan's operation is consistent with the policies and purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–13606 Filed 6–12–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15778; 812–6455]

Smith Barney Mortgage Capital Trust I et al.; Application

June 8, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Smith Barney Mortgage Capital Trust I and similar trusts ("Trusts") of which Smith Barney Mortgage Capital Corp. ("SBMC") is the depositor (collectively, "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order, amending an order previously issued to Applicants on December 30, 1986 (IC Rel. No. 15509), which conditionally exempted Applicants from all provisions of the 1940 Act in connection with the issuance of collateralized mortgage obligations and the investment in certain mortgage certificates. Applicants now seek an amended order permitting Applicants to sell beneficial interests in the Trusts, issue variable rate bonds, and to elect REMIC status.

Filing Date: The Application was filed on March 5, 1987, and amended on April 23, and May 18, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on June 30, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Wilmington Trust Company, Rodney Square North, Wilmington, Delaware 19890.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Richard Pfordte at (202) 278–2811 or Special Counsel Karen L. Skidmore at (202) 272–3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. SBMC is a direct, wholly-owned limited purpose subsidiary of Smith Barney Inc., ("SBI") a Delaware corporation, whose primary subsidiary is Smith Barney, Harris Upham & Co. Incorporated, a registered broker-dealer and investment adviser. SBMC, a Delaware corporation, was organized to issue one or more series of collateralized mortgage obligations ("Bonds"), serve as the depositor of one or more Trusts, and to sell beneficial interests in SBMC and such Trusts. Notwithstanding the sale of beneficial interests in SBMC, all of the outstanding stock of SBMC will continue to be owned by SBI.

2. SBMC will form the Trusts for the limited purpose of issuing one or more series of Bonds ("Series"), collateralized principally by certain Mortgage Certificates.[1] Applicants will not engage in any business or investment activities unrelated to such purpose.

3. Each applicant will be established under a separate deposit trust agreement ("Trust Agreement") between SBMC, acting as depositor, and Wilmington Trust Company acting as owner-trustee ("Owner Trustee"). Each Applicant will issue one or more Series of Bonds under the terms of an indenture ("Indenture") between such Applicant and an Independent trustee ("Bond Trustee"). The Owner Trustee will enter into a bond administration agreement under which the bond administrator will provide services to the Owner Trustee. The Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available.

4. In the case of each Series of Bonds: (a) Each Applicant will hold no substantial assets other than the Mortgage Certificates securing such Series; (b) the Bonds will be secured by Mortgage Certificates having a collateral value determined at the time of issuance and following each payment date, equal to or greater then the outstanding principal amount or balance of the Bonds; (c) distributions of principal and interest received on the Mortgage Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the Bonds and to retire each class of Bonds by its stated maturity; and (d) the Mortgage Certificates will be pledged by the Owner Trustee to the Bond Trustee and will be subject to the lien of the related Indenture.

5. In addition to the issue and sale of the Bonds, SBMC may sell certificates representing the beneficial interests in each Applicant ("Mortgage Certificates") to a limited number, in no event more than one hundred, of sophisticated institutional investors in transactions exempt from the registration requirements of the Securities Act of 1933 ("1933 Act") under section 4(2) thereof. Such institutional investors may include one or more banks, savings and loan associations, insurance companies, and pension plans or other investors that would have prior experience in making investments in mortgage related securities or real estate

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[1] By definition, the "Mortgage Certificates" collateralizing the Bonds will consist of (1) "fully-modified" pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (2) mortgage participation certificates issues by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), and (3) guaranteed mortgage pass-through securities issued by the Federal National Mortgage Association ("FNMA Certificates"). All or a portion of the Mortgage Certificates securing a series of Bonds may be "partial pool" Mortgage Certificates. Some of the GNMA Certificates securing a Series may be backed by mortgage loans that provide for payments during the initial portion of their terms that are less than the actual amount of principal and interest payable thereon on a level debt service basis ("GPM GNMA Certificates").

("Owners"). Each Owner will be required to represent that it is purchasing Trust Certificates for its own account for investment purposes, and not with a view to any distribution. In addition, the Trust Agreement relating to each Applicant will prohibit the transfer of Trust Certificates if there would be more than one hundred Owners of such Trust Certificates at any time.

6. None of the Applicants, SBMC, the Owner Trustee, the Bond Trustee or the Owners of any of the Applicants will be able to impair the security afforded by the Mortgage Certificates to the holders of the Bonds. That is, without the consent of each Bondholder to be affected, neither the Owners, the Owner Trustee nor the Bond Trustee will be able to: (1) Change the stated maturity on any Bonds; (2) reduce the principal amount or the rate of interest on any Bonds; (3) change the priority of payment on any class of any Series of Bonds; (4) impair or adversely affect the Mortgage Certificates securing a Series of Bonds; (5) permit the creation of a lien ranking prior to or on a parity with the lien of the Indenture for any Series of Bonds; or (6) terminate or otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

7. The sale of Trust Certificates will not alter the payment of cash flows under the Indenture, including the amounts to be deposited in the collection account or any reserve fund created pursuant to the Indenture to support payments of principal and interest on the Bonds.

8. No holder of a controlling interest in an Applicant (as the term "control" is defined in Rule 405 under the 1933 Act), will be affiliated with either the custodian or the statistical rating agency rating the Bonds. None of the Owners of an Applicant will be affiliated with the Bond Trustee.

9. The interests of the Bondholders will not be compromised or impaired by the ability of SBMC to sell beneficial interests in each Applicant, and there will not be a conflict of interest between the Bondholders and the Owners for several reasons: (a) The Mortgage Certificates which initially will be pledged to secure the Bonds issued by such Applicant will not be speculative in nature because they will consist solely of GNMA Certificates, FNMA Certificates or FHLMC Certificates, which Mortgage Certificates are guaranteed as to timely payment of interest and timely or ultimate payment of principal by each respective agency; (b) the Bonds will only be issued provided an independent nationally recognized statistical rating agency has rated such Bonds in the highest rating category, which by definition means that the capacity of the issuing Applicant to repay principal and interest on the Bonds is extremely strong; (c) the Indenture under which the Bonds will be issued subjects the collateral pledged to secure the Bonds, all income distributions thereon and all proceeds from a conversion, voluntary or involuntary, of any such collateral to a first-priority perfected security interest in the name of the Bond Trustee on behalf of the Bondholders;[2] and (d) the Owners will be entitled to receive current distributions representing the payments on the collateral in excess of required payments on, and expenses of, the Bonds from each Applicant in accordance with the terms of the applicable Trust Agreement, which distributions are analogous to dividends payable to a shareholder of a corporate issuer of collateralized mortgage obligations. Furthermore, except in the case of an Applicant which elects to qualify as a real estate mortgage investment conduit ("REMIC") under the Internal Revenue Code of 1986, the Owners will be liable for the expenses, taxes and other liabilities of each Applicant (other than the principal and interest on the Bonds) to the extent not previously paid from the trust estate. The choice of the form of issuer for the collateralized mortgage obligations and the identity of the Owners of such issuer, however, will not alter in any way the payments made to the holders of the Bonds, which are payments governed by an Indenture which will meet the requirements of the Trust Indenture Act of 1939.

10. One or more Applicants may elect to be treated as a REMIC. The election by any Applicant to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by any such Applicant. If an Applicant elects to be treated as a REMIC, it will provide for the payment of administrative fees and expenses incurred in connection with the issuance of the Bonds and the administration of the Applicant by one of the following methods or a combination of one or more of such methods: (a) A third party, whose credit is acceptable to the agency or agencies rating the bonds, the Bond Trustee and the Owner Trustee, will guarantee the payment of such fees and expenses; (b) one or more reserve funds will be established to provide for the payment of such fees and expenses, which maximum fees typically shall be projected, assuming current inflation factor scenarios required by the independent agency or agencies rating the Bonds, at the time of the issuance of the Bonds and the establishing of such reserve funds. Thereafter, the Bond Trustee will look solely to such reserve funds for the payment of certain fees and expenses. The procedure used to calculate the anticipated level of fees and expenses is reasonable and has been used successfully in the past, in that it has provided available funds sufficient to pay such fees and expenses and to insure that funds will be sufficient to cover future fees and expenses of the Bond Trustee; (c) the Bonds will be secured by collateral the value of which is in excess of the amount necessary to make payments of principal and interest on the Bonds, and such excess or a portion thereof will be applied to the payment of such fees and expenses, and may be used in combination with any of the other methods described herein; and (d) the Owners of the Beneficial interests in any Applicant will be personally liable, pursuant to the applicable Trust Agreement, for the fees and expenses of the Applicant not otherwise payable from one of the sources described above. Each Applicant will insure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods selected by such Applicant.

11. The aggregate interests of the Owners in the collateral and the expected returns by such Owners will be far less than the payments made to Bondholders. Applicants do not intend to deposit Mortgage Certificates to secure a Series of Bonds the collateral value of which exceeds 120% of the aggregate principal amount of the Bonds of such Series.

12. Except to the extent permitted by the limited right to substitute Mortgage Certificates, it will not be possible for the Owners to alter the composition of the Mortgage Certificates initially deposited into an Applicant, and in no event will such right to substitute Mortgage Certificates result in a diminution in the value or quality of

[2] The Indenture further specifically provides that no amounts may be released from the lien of the Indenture to be remitted to the issuing Applicant (and any owner of beneficial interests thereof) until (i) the Bond Trustee has made the scheduled payments of principal and interest on the Bonds, (ii) the Bond Trustee has received all fees currently owned to it, and (iii) to the extent required by any Indenture executed in connection with the issuance of the Bonds, deposits have been made to certain reserve funds. The Trust Agreement for each Trust will provide that the Owner Trustee under the Trust Agreement will have a lien superior to that of the Owners of the beneficial interests of the Trust to the remaining cash flow.

such Mortgage Certificates. Although it is possible that any Mortgage Certificates substituted for Mortgage Certificates initially deposited into an Applicant may have a different prepayment experience than the original Mortgage Certificates, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any Mortgage Certificates will be determined by market conditions beyond the control of the Owners of the beneficial interests, which market conditions are likely to affect all Mortgage Certificates of similar payment terms and maturities in a similar fashion; (b) the interests of the Owners are not likely to be greatly different from those of the Bondholders with respect to Mortgage Certificate prepayment experience; and (c) to the extent that it may be possible for the Owners to cause the substitution of Mortgage Certificates which have a different prepayment experience than the original Mortgage Certificates, this situation is not different for the Bondholders than the traditional collateralized mortgage obligation structure where bonds are issued by an entity that is a wholly-owned subsidiary. Further, due to the fact that there usually will be more than one owner of an Applicant, it appears less likely that the Owners will be able to agree on any desired substitution of Mortgage Certificates than if there were a single owner who could unilaterally decide on the timing and execution of the substitution.

13. Each Series of Bonds to be issued may contain one or more classes of variable or floating interest rate Bonds which will have a set maximum rate of interest ("interest rate cap") (or a minimum rate of interest, in the case of an inverse-floating rate Bond).

14. At the time of the deposit of the Mortgage Certificates with the Bond Trustee, and well as during the life of the Bonds, the scheduled payments of principal and interest to be received by the Bond Trustee on all Mortgage Certificates pledged to secure the Bonds, absent a default, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the application) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each class of variable rate Bonds. Such Mortgage Certificates will be paid down as the Mortgage Certificates are repaid, but will not be released from the Indenture prior to the payment of the Bonds.

15. For additional representations and conditions concerning classes of Bonds, certain optional and mandatory redemption features, and other provisions of the Bonds, see the application.

Applicants' Legal Conclusion

1. The requested amended order is necessary and appropriate in the public interest because: (a) The Applicants should not be deemed to be entities to which the provisions of the 1940 Act were intended to be applied; (b) the Applicants may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Applicants' activities are intended to serve a recognized and critical public need; (d) granting of the requested amended order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act and thereafter by the Bond Trustee representing their interests under the Indenture; and (e) the beneficial interests in the Applicant will either be held entirely by SBMC or will be offered only to a limited number of sophisticated institutional investors through private placements.

Applicants' Conditions.

Applicants agree that if an order is granted it will be expressly conditioned on the following conditions:

A. Conditions Relating to the Bond Collateral

(1) Each series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. Moreover, the Mortgage Certificates directly securing the Bonds will be limited to GNMA Certificates, FNMA Certificates, or FHLMC Certificates.

(3) If new Mortgage Certificates are substituted, the substitute Mortgage Certificates will: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flow as the Mortgage Certificates replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as Mortgage Certificates. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

(4) All Mortgage Cetificates, funds, accounts or other collateral securing a series of Bonds will be held by the Bond Trustee, or on behalf of the Bond Trustee by an independent custodian. Neither the custodian nor the Bond Trustee may be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicants. The Bond Trustee will be provided with a first-priority perfected security or lien interest in and to all collateral.

(5) Each series of Bonds will be rated in the highest bond rating category by at least one nationally recognized statistical rating agency that is not affiliated with an applicant. The Bonds will be considered "redeamable securities" within the meaning of section 2(a) (32) of the 1940 Act.

(6) No less often than annually, an independent public accountant will audit the books and records of each Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the Mortgage Certificates continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Bond Trustee.

B. Conditions Relating to Variable Rate Bonds

(7) Each class of variable rate Bonds will have a set maximum interest rate (an interest rate cap).

(8) At the time of the deposit of the Mortgage Certificates with the Bond Trustee, as well as during the life of the Bonds, the scheduled payments of principal and interest to be received by the Bond Trustee on all Mortgage Certificates pledged to secure the Bonds, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the application) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each class of variable rate Bonds. Such Mortgage Certificates will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds.

C. Condition Relating to REMIC Election

(9) The election by an Applicant to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by an Applicant. Any Applicant that elects to be treated as a REMIC will provide that all administrative fees and expenses in connection with the administration of the Applicant will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. In an Applicant elects to be treated as a REMIC it will provide for the payment of administrative fees and expenses incurred in connection with the issuance of the Bonds by it and the administration of the Applicant by one of the following methods or a combination of one or more of such methods: (a) A third party, whose credit is acceptable to the agency or agencies rating the Bonds, the Bond Trustee and the Owner Trustee, will guarantee the payment of such fees and expenses; (b) one or more reserve funds will be established to provide for the payment of such fees and expenses, which maximum fees typically shall be projected, assuming current inflation factor scenarios required by the independent agency or agencies rating the Bonds, at the time of the issuance of the Bonds and the establishing of such reserve funds. Thereafter, the Bond Trustee will look solely to such reserve funds for the payment of certain fees and expenses. The procedure used to calculate the anticipated level of fees and expenses is reasonable and has been used successfully in the past, in that it has provided available funds sufficient to pay such fees and expenses and to insure that funds will be sufficient to cover future fees and expenses of the Bond Trustee; (c) the Bonds will be secured by collateral the value of which is in excess of the amount necessary to make payments of principal and interest on the Bonds, and such excess or a portion therof will be applied to the payment of such fees and expenses, and may be used in combination with any of the other methods described herein, and (d) the Owners of the beneficial interests in any Applicant will be personally liable, pursuant to the applicable Trust Agreement, for the fees and expenses of the Applicant not otherwise payable from one of the sources described above. Each Applicant will insure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which of the above methods above (which methods may be used in combination) are selected by such Applicant to provide for the payment of such fees and expenses.

D. Conditions Relating to the Sale of Residual Interests

(10) Notwithstanding the sale of residual interests, all of the outstanding stock of SBMC (the depositor of each Trust Applicant) will continue to be owned by SBI.

(11) In addition, Applicants agree that the above representations regarding the residual interests (and more fully described in the application) will be express conditions to the requested Order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13607 Filed 6-12-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15779; (813-77)]

Stone Street Fund 1984; Application

June 8, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Stone Street Fund 1984 ("Partnership") and Stone Street Corp. ("General Partner")

Relevant 1940 Act Section: Amended Exemptive Order requested under sections 6(b) and 6(e).

Summary of Application: Applicants seek a second order amending an existing Commission order that exempted the Partnership and all similar partnerships offered to the same class of investors as the Partnership (together "Partnerships") from all provisions of the 1940 Act with certain exceptions. The exemption requested would permit the Partnerships, each of which is a limited partnership organized for key employees of Goldman, Sachs & Co., to invest through a joint brokerage account at Goldman, Sachs & Co. without the necessity of separately segregating the securities and investments of each Partnership.

Filing Date: The application was filed on December 10, 1986 and amended on April 13, and May 28, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on June 30, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 85 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272-3046, or Curtis Hilliard, Special Counsel, (202) 272-3026 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicants previously received an exemption order [Investment Company Act Release No. 13921 (May 2, 1984)] ("Initial Order") exempting them from all provisions of the Act with certain exceptions and granting confidential treatment to certain filings and an order [Investment Company Act Release No. 14330 (January 17, 1985) amending the Initial Order (the Initial Order and the order amending the Initial Order together, the "Amended Order"). The applications for the Amended Order are incorporated in the pending application by reference. The Amended Order exempted both the Initial Partnership and similar Partnerships which may be organized in the future from all provisions of the Act with certain exceptions.

2. The exemption is requested to facilitate the investment by the Partnerships in a joint brokerage account established by Goldman, Sachs & Co. for trading by Goldman, Sachs & Co., the Partnerships and/or Goldman Sachs partners' investment vehicles in investments such as risk arbitrage investments, publicly-traded equity securities and high-yield debt securities. Although the existing Partnerships presently participate in such investments, securities are purchased and sold on an individual basis for each Partnership. This has resulted in significant additional paperwork and costs, including paperwork and costs

resulting from separate processing and confirmation of trades and segregation of securities owned.

3. Under the joint trading program, each participant in the trading account will determine annually how much of that participant's funds to invest in the trading account. The participants will not be allowed to withdraw funds from the account during the course of the year. At the termination of each one year period, each participant will be entitled to its proportional interest in the account based upon its initial contribution to the trading account. Only one confirmation will be given for each trade done by the account, but securities and cash in the account will at all times be owned separately by each participant based on its initial contribution to the account.

4. The above terms and conditions of participation in the account (including the separate ownership of securities and cash) will be established pursuant to a written agreement among the participants and Goldman, Sachs & Co. entered into at the time the account is created and at the time of each annual redetermination of participants. This agreement will become part of the records of Goldman, Sachs & Co. and each participant so that, at any time, the separate ownership of securities and cash may be determined. In addition, the account will be maintained in compliance with the customer protection requirements of the Securities Exchange Act of 1934 (the "Exchange Act"), including the regulations under section 15(c) of that Act. The records of the account will be made available to the General Partner of each of the participating Partnerships and to the auditors of each of the participants.

Applicants' Legal Conclusions

1. Although Goldman, Sachs & Co. will not guarantee the Partnerships against loss, the Applicants believe that the proposed arrangements provide adequate protections against loss to the Partnerships from insolvency, fraud or embezzlement. First, the strong financial position of Goldman, Sachs & Co. and the requirements of the Commission's net capital rule under the Exchange Act minimize the risk of loss from insolvency. Further, although the rules applicable to Goldman, Sachs & Co. under the Exchange Act do not require physical segregation of securities as does Rule 17f–1 under the 1940 Act, the Partnerships will (as any other customer of Goldman, Sachs & Co.) be entitled to the benefits of the protective provisions, including confirmation requirements, requirements of physical possession and control of securities, fidelity bonding and adequate recordkeeping which the Applicants believe furnish appropriate protection for the Partnerships against loss from fraud or embezzlement.

2. Given the relationship of trust and confidence between investors in the Partnerships and Goldman, Sachs & Co., and the knowledge of such investors of the operations of Goldman, Sachs & Co., the Applicants believe that the proposed exemption is appropriate. The investors in the Partnerships as vice presidents and limited partners of Goldman, Sachs & Co. have confidence in the procedures adopted by Goldman Sachs & Co. to safeguard securities holdings, which will apply to the operations of the proposed joint trading account. Further, participation by any Partnership in any joint investments which would otherwise fall within the prohibitions of section 17(d) of the 1940 Act will be effected in compliance with the conditions contained in the Amended Order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–13608 Filed 6–12–87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–15786; 812–6660]

Wellington Fund, Inc., et al.; Application

June 9, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicants: Wellington Fund, Inc., The Windsor Funds, Inc., Vanguard World Fund, Inc., Gemini II, Inc., Explorer Fund, Inc., Explorer II, Inc., W.L. Morgan Growth Fund, Inc., Wellesley Income Fund, Inc., Vanguard Fixed Income Securities Fund, Inc., Vanguard Money Market Reserves, Inc., Vanguard Qualified Dividend Portfolio I, Inc., Vanguard Qualified Dividend Portfolio II, Vanguard Qualified Dividend Portfolio III, Vanguard Index Trust, Vanguard Municipal Bond Fund, Inc., Trustees' Commingled Fund, Naess & Thomas Special Fund, Inc., Vanguard Specialized Portfolios, Inc., PRIMECAP Fund, Inc., Vanguard California Insured Tax-Free Fund, Vanguard New York Insured Tax-Free Fund, Vanguard Pennsylvania Insured Tax-Free Fund, Vanguard Convertible Securities Fund, Inc., Vanguard Bond Market Fund, Inc., Vanguard Quantitative Portfolios, Inc., and all future investment companies of the Vanguard Group of Investment Companies (collectively, "Vanguard Group" or "Funds") and The Vanguard Group, Inc. ("Vanguard").

Relevant 1940 Act Sections: Order requested under section 17(d) of the 1940 Act and Rule 17d–1 thereunder.

Summary of Application: The Funds seek an order to permit them to amend their Funds' Service Agreement to increase the authorized capital of Vanguard, the service company jointly owned by the Funds, to $25,000,000, subject to the limitations set forth in the Funds' Service Agreement ("Agreement") and to permit the amendment to the Agreement by shareholders of each of the Vanguard Funds.

Filing Dates: The application was filed on March 23, 1987 and amended on June 4, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on their application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on July 1, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Vanguard Funds and The Vanguard Group, Inc., c/o Vanguard Financial Center, 1300 Morris Drive, P.O. Box 876, Valley Forge, Pennsylvania 19482.

FOR FURTHER INFORMATION CONTACT: Fran Pollack, Staff Attorney (202) 272–3024 or Karen L. Skidmore, Special Counsel (202 272–3023 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, (800) 231–3282 (in Maryland, (301) 258–4300).

Applicants' Representations

1. Each of the Funds is an investment company registered under the 1940 Act and a member Fund of the Vanguard Group of investment companies. Vanguard is the wholly and jointly owned subsidiary of, and service company to, the member Funds of The

Vanguard Group. Vanguard is a registered investment adviser and transfer agent.

2. On May 1, 1975, the eleven then existing Funds "internalized" their corporate management and administrative functions through Vanguard. This partial internalization was effected pursuant to the terms of the Agreement dated May 1, 1975, which provided: (1) That the Funds capitalize Vanguard by purchasing shares of its common stock in proportion to their relative net assets; and (2) that the initial capitalization of Vanguard be $300,000. On February 18, 1975, the Commission issued an order (1940 Act Release No. 8676) permitting the proposed purchase of shares of Vanguard by the then existing Funds.

3. On July 16, 1976, the Funds internalized most aspects of their shareholder services (i.e. transfer agency) functions through Vanguard. On February 8, 1977, sales commissions were eliminated on the sale of shares of the nine Funds which had imposed such charges. Simultaneously, the Board of Directors of each Fund (other than Gemini Fund and Exeter Fund which have been liquidated by merger) determined to internalize each Fund's distribution function on a joint basis with the other Funds in the Vanguard Group. On October 1, 1977, the fifteen then existing Funds internalized their distribution function through Vanguard. This further internalization was effected pursuant to the terms of amendments, dated October 1, 1977, to the Agreement, which were approved by the shareholders of the Funds. The Commission issued an order on a temporary basis while hearings could be held to determine whether the temporary orders of exemption should be permanent (1940 Act Release No. 9927, September 13, 1977). Following hearings, the amendments were permitted by an order of the Commission dated February 25, 1981 (1940 Act Release No. 11645).

4. The Agreement was subsequently amended twice: (i) On May 4, 1981, the Commission issued an order (1940 Act Release No. 11776) permitting the Funds to increase their maximum aggregate capital contributions in Vanguard to $2,500,000 and (ii) on November 3, 1983, the Commission issued an order (1940 Act Release No. 13613) permitting the Vanguard Funds to increase their maximum aggregate capital contributions in Vanguard to $10,000,000. In each case, the amendment to the Agreement was also approved by shareholders of each of the Funds.

5. Currently, the Agreement, as amended, limits the aggregate cash investments of the Funds in shares of Vanguard to $10,000,000 and the cash investment of each Fund to 0.25% of its then current assets, in both cases as determined at the time of the most recent investment. The amounts which each of the Funds have invested in Vanguard are adjusted from time to time by purchases and sales of shares among the Funds. As of March 1, 1987, the Funds had invested a total of $6,500,000 in Vanguard.

6. Subject to obtaining an order of the Commission sought by the application, the Funds propose to submit, for the approval of shareholders of each of the Funds, an amendment to the Agreement increasing the authorized capital of Vanguard to $25,000,000. The current limitation that each Fund's contribution to the capital of Vanguard shall not exceed 0.25% of its assets, will not be amended. Based on the Funds' assets of approximately $29.0 billion at March 10, 1987, if Vanguard's working capital were increased immediately to $25,000,000, each Fund's contribution to Vanguard's capital would be approximately 0.09% of its assets (i.e., less than 1/10 of 1%). If the proposed amendment to the Agreement is approved by the Commission and the Funds' shareholders, the boards of directors propose to cause the Funds to immediately increase their aggregate contribution to Vanguard to $10,000,000.

7. Applicants believe that the currently authorized capital ($10,000,000) of Vanguard is no longer adequate to accomplish its original primary purpose of serving as working capital to be used to pay Vanguard's ongoing expenses. Vanguard's expenses have increased substantially over the last three years as the Vanguard Group and the Funds comprising the Vanguard Group have grown, and expenses are expected to increase again in 1987. Since the commencement of internalization on May 1, 1975, the Funds have grown in number from eleven with total assets of $1.8 billion, to forty-eight with total assets of approximately $29 billion as of March 10, 1987. Further, during this same period the number of employees of Vanguard increased from 60 to 1,452, and Vanguard's average monthly expenses increased from approximately $119,000 to $6,082,000.

8. Notwithstanding this growth in the magnitude of the Vanguard Group's operations (and the absolute dollar expenditures resulting therefrom) and inflationary conditions, which would otherwise be expected to magnify the increase in these expenditures, the aggregate expense ratio of the Funds as a group was lower in 1986 (.47% of total net assets) than in 1975 (.69% of total net assets) and 1983 (.62% of total net assets). These unit cost reductions of 32% and 24%, respectively, occurred during a period of generally rising expense ratios of nearly all other mutual fund complexes.

9. Vanguard is an affiliated person, as defined in section 2(a)(3)(B) of the 1940 Act, (at January 31, 1987) of at least The Windsor Funds, Vanguard Money Market Reserves, Vanguard Municipal Bond Fund, and Vanguard Fixed Income Securities Fund, which each own more than 5% of the voting securities of Vanguard. Vanguard may also be deemed to be directly or indirectly controlled by, or under common control with one or more or all of the Funds (including any new investment companies organized pursuant to the Agreement) insofar as the Funds own all of Vanguard's voting securities, and Vanguard and the Funds have common directors. Each of the Funds (including any new investment companies organized pursuant to the Agreement) may be deemed to be an affiliated person of each and all of the other Funds, insofar as the Funds and Vanguard have common boards of directors. The Funds have also entered into an agreement with respect to the voting of shares of Vanguard to be owned by the Funds, and therefore may be deemed to be under "common control" as defined in section 2(a)(3)(C) of the 1940 Act.

10. By virtue of the affiliations described above, one or more or all of the Funds and Vanguard may be deemed to be engaged in a joint transaction prohibited by section 17(d) of the 1940 Act and therefore would be prohibited from participating in the proposed transaction unless an order is issued.

11. As business organizations, the Funds must have the financial resources available to bear current expenses (including employee compensation, rent and office equipment leasing costs), to acquire the office space, furnishings and equipment necessary to conduct their business activities, and to make financial commitments which the Funds' boards of directors determine are necessary or appropriate to serve the interests of the Funds' shareholders.

12. The boards of directors have determined that it is in the interests of the Funds' shareholders to increase the authorized capital of Vanguard to $25,000,000 and thus to have available through Vanguard adequate resources to acquire assets or undertake other

financial commitments when opportunities exist. The boards of directors have found, through actual experience that, it is not feasible to to seek a Commission exemptive order and shareholder approval each time a need for an additional expenditure of capital arises.

Applicants' Legal Conclusions

13. The proposed increase in authorized capital is consistent with the provisions, policies and purposes of the 1940 Act because the capital increase will minimize the administrative burdens and expenses resulting from the frequent need to reimburse Vanguard, and will enhance the directors' ability to take actions which they, in the exercise of informed, independent and good faith business judgement, believe will serve the interests of the Funds' shareholders.

14. The capital authorized, if fully contributed, is reasonable in light of the present size of the Vanguard Group and Vanguard's current working capital requirement and potential capital commitments. Moreover, the authorized capital represents a small portion of each Fund's net assets in light of the services which each Fund derives by being a member of a strong fund group. At current assets levels, each Fund's contribution to Vanguard's capital would represent approximately 0.05% of the Fund's assets at the $15 million level and 0.09% at the $25 million level.

15. In light of the anticipated possible uses of the increased amount of capital, the allocation of capital contributions based upon the Funds' relative net assets, periodically adjusted, results in each Fund's participation in the arrangement on an equal basis. Further, if an order of the Commission is issued, the proposed amendment to the Funds' Agreement will be submitted for approval by the shareholders of each of the Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13609 Filed 6-12-87; 8:45 am]

BILLLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2281]

Ohio; Delcaration of Disaster Loan Area

Lawrence County, in the State of Ohio, constitutes a disaster area because of damage from a flash flood which occurred on May 21, 1987.

Applications for loans for physical damage may be filed until the close of business on August 10, 1987, and for economic injury until the close of business on March 9, 1988, at the addressed listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Floor, Atlanta, Georgia 30308.

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	9.500

The number assigned to this disaster is 228106 for physical damage and for economic injury the number is 653100.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: June 9, 1987.

James Abdnor,

Administration.

[FR Doc. 87-13600 Filed 6-12-87; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Paperwork Reduction Act of 1980, as amended by Pub. L. 99-591; Information collection under review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), as amended by Pub. L. 99-591.

Requests for information, including copies of information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395-7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2524.

Type of Request: Regular submission.

Title of Information Collection: Salary Survey for Salary Policy Bargaining Unit Employees.

Frequency of Use: Annually.

Type of Affected Public: State or local governments, Federal agencies, non-profit institutions, businesses or other for-profit.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 45.

Estimated Total Annual Burden Hours: 135.

Need For and Use of Information: TVA conducts an annual salary survey for employee compensation and benefits as a basis for labor negotiations in determining prevailing rates of pay and benefits for represented salary policy employees. TVA surveys firms, and Federal, State, and local governments whose employees perform work similar to that of TVA's salary policy employees.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 87-13545 Filed 6-12-87; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radar Approach Control Facility at McChord Air Force Base, WA; Closing

Notice is hereby given that on or about July 5, 1987, the radar approach control facility at McChord Air Force Base, Washington, will be closed. Services to the aviation public formerly provided by this facility will be provided by the radar approach control facility at Seattle-Tacoma International Airport, Washington. This information will be reflected in the FAA Organization Statement the next time it is issued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Seattle, Washington, on June 1, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-13521 Filed 6-12-87; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 114
Monday, June 15, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, June 17, 1987. See times below.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS:

MATTERS TO BE CONSIDERED:

10:00 a.m.

Open to the Public

1. Cigarette Lighters Project Briefing

The staff will brief the Commission on the Cigarette Lighters Project.

2:00 p.m.

Closed to the Public

2. Compliance Status Report

The staff will brief the Commission on a Compliance Status Report.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

June 10, 1987.

[FR Doc. 87–13615 Filed 6–10–87; 4:28 pm]

BILLING CODE 6355–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 1:00 p.m. on Wednesday, June 17, 1987, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Western Bank and Trust, a proposed new bank to be located at 1901 Maplewood Drive, Sulphur, Louisiana.

Applications (1) for Federal deposit insurance and (2) for consent to merge and to establish nineteen branches:

Metropolitan Bank of Bethesda, an operating noninsured institution, Bethesda, Maryland, for Federal deposit insurance upon its conversion from a savings and loan association; and The Bank of Baltimore, Baltimore, Maryland, for consent to merge, under its charter and title, with Metropolitan Bank of Bethesda, Bethesda, Maryland, and for consent to establish the nineteen offices of Metropolitan Bank of Bethesda as branches of The Bank of Baltimore.

Application for consent to purchase assets and assume liabilities and relocate a branch:

First American Bank for Savings, Boston, Massachusetts, an insured stock savings bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the 1575 Blue Hill Avenue, Boston, Massachusetts, branch of Pioneer Financial, A Co-Operative Bank, Malden, Massachusetts, a non-FDIC-insured institution, and for consent to relocate its existing Mattapan Branch from 1625 Blue Hill Avenue, Boston, Massachusetts, to 1575 Blue Hill Avenue, Boston, Massachusetts.

Memorandum and Resolution re: Establishment of the Prospective Investor System of Records, pursuant to the Privacy Act of 1974, in connection with the Division of Liquidation's secondary marketing asset pricing system, which system of records would relate to qualified individuals who have indicated a desire to purchase loans or real estate from the Corporation.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Trend Analysis Report:
- Trend Analysis of Liquidation Site Audit Results (Memo dated May 19, 1987)

Trend Analysis Report:
- Analysis of Regional/Consolidated Office Audit Results (Memo dated June 3, 1987)

Summary Audit Report:
- The Gering National Bank & Trust Company, Gering, Nebraska (2585) (Memo dated May 29, 1987)

Summary Audit Report:
- Bank of Commerce and Trust Company, Tulsa, Oklahoma (2556) (Memo dated May 26, 1987)

Summary Audit Report:
- The First National Bank of Sheridan, Sheridan, Wyoming (2577) (Memo dated June 2, 1987)

Summary Audit Report:
- New York Regional Office, New York, New York—500 (Memo dated May 26, 1987)

Summary Audit Report:
- Addison Consolidated Office, Addison, Texas—404 (Memo dated May 26, 1987)

Summary Audit Report:
- Audit of Loan Management and Liquidation, Denver Consolidated Office (Memo dated June 3, 1987)

Summary Audit Report:
- Asset Management and FIS EDP System, Western Regional Office—600 (Memo dated June 5, 1987)

Report of the Director, Division of Liquidation:

Memorandum re:
- Monthly Report of Actions Under Delegated Authority by the Committee on Liquidations, Loans, and Purchases of Assets, May 1, 1987—May 31, 1987

Discussion Agenda:

Memorandum and Resolution regarding an extension of time to comply with certain provisions of the Corporation's regulations governing securities activities of subsidiaries and affiliates of insured nonmember banks (12 CFR 337.4).

Memorandum and resolution re: Proposed amendment to Part 344 of the Corporation's rules and regulations, entitled "Recordkeeping and Confirmation Requirements for Securities Transactions," which amendment would exempt from certain recordkeeping and written policymaking requirements banks effecting an average of fewer than 1,000 securities transactions per year.

Memorandum re: Notice of withdrawal of the FDIC's Statement of Policy Regarding Disclosure by the FDIC of Statutory Enforcement Actions.

Memorandum re: Proposed Statement of Policy for Disclosure of Financial and Other Information by Insured State Nonmember Banks, which policy statement would recommend that insured State nonmember banks make available to the public upon request financial data and management discussion and analysis of significant events covering the previous two calendar years as well as future plans.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: June 10, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–13668 Filed 6–11–87; 11:39 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:30 p.m. on Wednesday, June 17, 1987, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(II), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Recommendation regarding the Corporation's assistance agreement with an insured bank.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Memorandum regarding the Corporation's corporate activities.

Request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: June 10, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–13669 Filed 6–11–87; 11:39 am]

BILLING CODE 6714–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business required that the previously announced closed meeting (**Federal Register**, Vol. 52, No. 108, page 21408, June 5, 1987) on June 10, 1987, include an additional item, which was closed to public observation: Ratification of conversion agreement. Closed pursuant to exemptions (8) and (9)(A)(ii).

The Board unanimously voted to add this item to the closed agenda.

The previously announced items were:

1. Approval of Minutes of Previous Closed Meetings.

2. Establishment of Board Policy With Regard to Providing Form 5300 Data. Closed pursuant to exemption (8).

3. Board Continuance of Direct Agent Membership in the Central Liquidity Facility for Agent Member. Closed pursuant to exemption (8).

4. Appeal of Decision Denying Insurance Application. Closed pursuant to exemptions (8) and (9)(A)(ii).

5. Special Assistance under section 208 of the Federal Credit Union Act. Close pursuant to exemptions (8) and (9)(A)(ii).

6. Review of Delegations of Authority. Closed pursuant to exemption (2).

7. Board Briefings. Closed pursuant to exemptions (2), (8), (9)(A)(ii), and (9)(B).

The meeting was held at 1:45 p.m., in the Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 357–1100.

Becky Baker,

Secretary of the Board.

[FR Doc. 87–13692 Filed 6–11–87; 2:24 pm]

BILLING CODE 7535–01–M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 9:00 a.m., Tuesday 23 June 1987, followed by adjudicated case meeting.

PLACE: Board Conference room, Sixth Floor 1717 Pennsylvania Avenue, NW.

STATUS: The first part of this meeting will be open to public observation. The remaining part of this meeting will be closed to public observation.

MATTERS TO BE CONSIDERED:

Portion open to public observation

Rulemaking on appropriate units in the health care industry

Portion closed to public observation

Adjudicated cases

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, NLRB, Washington, DC 20570, Telephone: (202) 254–9430.

Dated, Washington, DC June 10, 1987.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 87–13616 Filed 6–10–87; 4:39 pm]

BILLING CODE 7545–01–M

PAROLE COMMISSION

I, Cameron M. Batjer, Vice Chairman of the United States Parole Commission, acting in the absence of the Chairman, presided at a meeting of said Commission which started at the 11:45 a.m. (EDT) on Friday, June 5, 1987, by conference telephone call initiated at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about 12:00 noon (E.D.T.). The purpose of the meeting was to decide an application for a certificate of exemption under 29 U.S.C. 1111. Eight Commissioners were present, constituting a quorum, when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and a certification of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Saundra Brown Armstrong

(Belmont, California); Jasper Clay, Jr. (Chevy Chase, Maryland); Vincent J. Fechtel (Chevy Chase, Maryland); Carol P. Getty (Kansas City, Missouri); Daniel R. Lopez (Philadelphia, Pennsylvania); G. MacKenzie Rast (Atlanta, Georgia); and Victor M.F. Reyes (Dallas, Texas). Cameron M. Batjer did not vote on the motion to close. The Commissioners and two attorneys from the Office of the General Counsel attended.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: June 5, 1987.

Cameron M. Batjer,

Vice Chairman, United States Parole Commission.

[FR Doc. 87-13638 Filed 6-11-87; 11:41 am]

BILLING CODE 4410-01-M

federal register

Monday
June 15, 1987

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

Income Tax; Continuation Coverage Requirements of Group Health Plans; Notice of Proposed Rulemaking

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-143-86]

Income Tax; Continuation Coverage Requirements of Group Health Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the requirement that a group health plan offer continuation coverage to people who would otherwise lose coverage as a result of certain events. They reflect changes made by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and the Tax Reform Act of 1986. The regulations will generally affect sponsors of and participants in group health plans, and they provide plan sponsors with guidance necessary to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed on or before August 14, 1987. These regulations are proposed to be effective when final regulations are published in the **Federal Register** as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-143-86) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T). Telephone 202-566-6212 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 106(b), 162(i)(2), and 162(k) of the Internal Revenue Code of 1986 (Code). The proposed regulations conform the regulations to section 10001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (100 Stat. 222) and to section 1895(d) of the Tax Reform Act of 1986 (100 Stat. 2936), which made technical corrections to the COBRA provisions.

COBRA added a new section 162(k) of the Code to specify continuation coverage requirements for employer-provided group health plans. In general, a group health plan must offer each "qualified beneficiary" who would otherwise lose coverage under the plan as a result of a "qualifying event" an opportunity to elect continuation of the coverage being received immediately before the qualifying event. A qualified beneficiary who properly elects continuation coverage can be charged an amount no greater than 102 percent of the "applicable premium." The "applicable premium" is based on the plan's cost of providing coverage.

If a group health plan fails to comply with these continuation coverage requirements, the employer will be unable to deduct contributions made to that or any other group health plan (section 162(i)(2)), and certain highly compensated individuals will be unable to exclude from income any employer-provided coverage under that or any other group health plan (section 106(b)).

In addition, there may be non-tax consequences if a group health plan fails to comply with parallel requirements that section 10002 of COBRA added to Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Title I of ERISA is administered by the Department of Labor. Governmental plans (as defined in section 414(d) of the Code) are exempt from both the tax and ERISA provisions. However, State and local governmental group health plans are subject to parallel requirements that section 10003 of COBRA added to the Public Health Service Act, which is administered by the Department of Health and Human Services.

The proposed regulations do not reflect section 9501 of the Omnibus Budget Reconciliation Act of 1986, which extended the COBRA continuation coverage requirements to certain individuals receiving retiree medical benefits from employers that are involved in bankruptcy proceedings. The changes made by that act will be addressed in a later issuance.

The proposed regulations clarify which plans must offer COBRA continuation coverage and the tax consequences of failing to do so. They also provide guidance on a variety of details, including the scope of the continuation coverage, who is a qualified beneficiary, what is a qualifying event, how elections are made, and when payment must be made. Rules regarding computation of the applicable premium under section 162(k)(4) will be addressed in a later issuance.

Section 414(t) as added by the Tax Reform Act of 1986 extends the employer aggregation rules of sections 414 (b), (c), (m), and (o) to a variety of employee benefit provisions. The list of those provisions includes section 106 (denying an income exclusion to highly compensated employees of an employer maintaining a group health plan that fails to comply with section 162(k)), but does not include section 162(i)(2) (denying deductions to such an employer) or section 162(k) itself. A technical correction to add sections 162(i)(2) and 162(k) to the list was included in H.Con.Res. 395. Although the 99th Congress adjourned without enacting that concurrent resolution, the correction was identical in both House and Senate versions. Accordingly, the proposed regulations set forth employer aggregation rules that anticipate a similar technical correction with retroactive effect being enacted in the current session of Congress.

There is no connection between the proposed regulations and section 89 of the Code. For example, the definitions set forth in the proposed regulations will not affect the meaning of "core benefits," "non-core benefits," or any other terms for purposes of section 89. Also, the computation of applicable premiums for COBRA continuation coverage will not affect the determination of the value of group health plan benefits for purposes of section 89.

Effective Date

The regulations are proposed to be effective when final regulations are published in the **Federal Register** as a Treasury decision. Group health plans become subject to the COBRA continuation coverage requirements at different times, however, depending on the plan year of a plan and whether the plan is a collectively bargained plan. With respect to qualifying events that occur on or after the date that a plan became or becomes subject to those requirements and before the effective date of final regulations, the plan and the employer must operate in good faith compliance with a reasonable interpretation of the statutory requirements (i.e., title X of COBRA). For the period before the effective date of final regulations, the Internal Revenue Service will consider compliance with the terms of these proposed regulations to constitute good faith compliance with a reasonable interpretation of the statutory requirements (other than the statutory requirements regarding the computation of the applicable premium or the treatment, under section 9501 of the Omnibus Budget Reconciliation Act of 1986, of certain bankruptcies as qualifying events, which are not addressed in these proposed regulations). Moreover, plans and employers will be considered to be in

compliance with the terms of these proposed regulations if, between June 15, 1987 and September 14, 1987, they operate in good faith compliance with a reasonable interpretation of the statutory requirements and, from September 15, 1987 until the effective date of final regulations, they operate in compliance with the terms of these proposed regulations. In addition, the Internal Revenue Service will not consider actions inconsistent with the terms of these proposed regulations necessarily to constitute a lack of good faith compliance with a reasonable interpretation of the statutory requirements; whether there has been good faith compliance with a reasonable interpretation of the statutory requirements will depend on all the facts and circumstances of each case.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not consitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A pubic hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Mark Schwimmer of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1 Through 1.281–4

Income taxes, Taxable Income, Deductions, Exemptions.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. The authority citation for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Sections 1.106–1 and 1.162–26 also issued under 26 U.S.C. 106(b), 162(i)(2), and 162(k).

Par. 2. Section 1.106–1 is amended by redesignating the existing text as paragraph (a), revising the first sentence of paragraph (a), and adding a new paragraph (b) to read as follows:

§ 1.106–1 Contributions by employer to accident and health plans.

(a) Except as set forth in paragraph (b) of this section, the gross income of an employee does not include contributions which his employer makes to an accident or health plan for compensation (through insurance or otherwise) to the employee for personal injuries or sickness incurred by him, his spouse, or his dependents, as defined in section 152. * * *

(b) In situations involving group health plans that do not comply with section 162(k), the exclusion described in paragraph (a) of this section is not available to highly compensated employees (as defined in section 414(q)). See § 1.162–26 (regarding continuation coverage requirements of group health plans).

Par. 3. A new § 1.162–26 is added immediately after § 1.162–25T to read as follows:

§ 1.162–26 Continuation coverage requirements of group health plans.

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COBRA in general: Q&A–1 to Q&A–6
Which plans must comply and when: Q&A–7 to Q&A–14
Qualified beneficiaries: Q&A–15 to Q&A–17
Qualifying events: Q&A–18 to Q&A–21
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Duration of COBRA continuation coverage: Q&A–38 to Q&A–43
Paying for COBRA continuation coverage: Q&A–44 to Q&A–48

List of Questions

COBRA in General

Question 1: What are the new health care continuation coverage requirements added to the Internal Revenue Code by the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA")?
Question 2: What is the effect of a group health plan's failure to comply with section 162(k)?
Question 3: How are employer deductions affected by a group health plan's failure to comply with section 162(k)?
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Qualifying Events

Question 18: What is a qualifying event?
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COBRA Continuation Coverage

Question 22: What is COBRA continuation coverage?
Question 23: How is COBRA continuation coverage affected by changes in the coverage that is provided to similarly situated beneficiaries with respect to whom a qualifying event has not occurred?

Question 24: Can a group health plan require a qualified beneficiary who wishes to receive COBRA continuation coverage to elect to receive a continuation of all of the coverage that he or she was receiving under the plan immediately before the qualifying event?

Question 25: What is core coverage?

Question 26: Must a qualified beneficiary be given an opportunity to elect core coverage plus only one of two non-core coverages that the qualified beneficiary had under the plan immediately before the qualifying event?

Question 27: Must a qualified beneficiary who is covered under a single plan providing both core coverage and non-core coverage be offered the opportunity to elect non-core coverage only?

Question 28: What deductibles apply if COBRA continuation coverage is elected?

Question 29: How do a plan's limits apply to COBRA continuation coverage?

Question 30: Can a qualified beneficiary who elects COBRA continuation coverage ever change from the coverage received by that individual immediately before the qualifying event?

Question 31: Aside from open enrollment periods, can a qualified beneficiary who has elected COBRA continuation coverage choose to cover individuals (such as newborn children, adopted children, or new spouses) who join the qualified beneficiary's family on or after the date of the qualifying event?

Electing COBRA Continuation Coverage

Question 32: What is the minimum period during which a group health plan must allow a qualified beneficiary to elect COBRA continuation coverage (i.e., the election period)?

Question 33: Must a covered employee or qualified beneficiary inform the employer or plan administrator of the occurrence of a qualifying event?

Question 34: During the election period and before the qualified beneficiary has made an election, must coverage be provided?

Question 35: Is a waiver before the end of the election period effective to end a qualified beneficiary's election rights?

Question 36: Can an employer withhold money or other benefits owed to a qualified beneficiary until the qualified beneficiary either waives COBRA continuation coverage, elects and pays for such coverage, or allows the election period to expire?

Question 37: Can each qualified beneficiary make an independent election under COBRA?

Duration of Cobra Continuation Coverage

Question 38: How long must COBRA continuation coverage be available to a qualified beneficiary?

Question 39: When does the maximum coverage period end?

Question 40: Can the maximum coverage period ever be expanded?

Question 41: If coverage is provided to a qualified beneficiary after a qualifying event without regard to COBRA continuation coverage (e.g., as a result of State or local law, industry practice, a collective bargaining agreement, or plan procedure), will such alternative coverage extend the maximum coverage period?

Question 42: How can an event that occurs before a group health plan becomes subject to section 162(k) affect the maximum coverage period when a later, qualifying event occurs?

Question 43: Must a qualified beneficiary be given the right to enroll in a conversion health plan at the end of the maximum coverage period for COBRA continuation coverage?

Paying for COBRA Continuation Coverage

Question 44: Can a qualified beneficiary be required to pay for COBRA continuation coverage?

Question 45: After a qualified beneficiary has elected COBRA continuation coverage under a group health plan, can the plan increase the amount that the qualified beneficiary must pay for COBRA continuation coverage?

Question 46: Must a qualified beneficiary be allowed to pay for COBRA continuation coverage in installments?

Question 47: Can a qualified beneficiary choose to have the first payment for COBRA continuation coverage applied prospectively only?

Question 48: What is timely payment for COBRA continuation coverage?

Cobra in General

Question 1: What are the new health care continuation coverage requirements added to the Internal Revenue Code by the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA")?

Answer 1: Section 10001 of COBRA added a new section 162(k) to the Code to provide generally that a group health plan must offer each qualified beneficiary who would otherwise lose coverage under the plan as a result of a qualifying event an opportunity to elect, within the applicable election period, continuation coverage under the plan. That continuation coverage is referred to in this section as "COBRA" continuation coverage" and a group health plan that is subject to section 162(k) is referred to as being "subject to COBRA" (see Q&A–8 of this section). A qualified beneficiary can be required to pay for COBRA continuation coverage. A qualified beneficiary is defined in Q&A–15 of this section. A qualifying event is defined in Q&A–18 of this section. The election procedures are described in Q&A–32 through Q&A–37 of this section. COBRA continuation coverage is described in Q&A–22 through Q&A–31 of this section. Payment for COBRA continuation coverage is addressed in Q&A–44 through Q&A–48 of this section. Unless otherwise specified, any reference in this section to "COBRA" refers to section 10001 of COBRA and to section 162(k) of the Code as added by COBRA (as amended).

Question–2: What is the effect of a group health plan's failure to comply with section 162(k)?

Answer–2: If a group health plan subject to COBRA fails to comply with section 162(k), certain deductions are disallowed to the employer under section 162(i)(2) (see Q&A–3 of this section) and the income exclusion under section 106(a) is denied to certain highly compensated employees of the employer under section 106(b)(1) (see Q&A–4 of this section). There may be additional non-tax consequences if the plan fails to comply with parallel requirements that were added by section 10002 of COBRA to Title I of the Employee Retirement Income Security Act of 1974 (ERISA), which is administered by the Department of Labor. Although governmental plans are not subject to section 162(k) because they are not "subject to COBRA" (see Q&A–8 of this section), certain governmental plans are subject to parallel requirements that were added by section 10003 of COBRA to the Public Health Service Act, which is administered by the Department of Health and Human Services.

Question 3: How are employer deductions affected by a group health plan's failure to comply with section 162(k)?

Answer 3: (a) Under section 162(i)(2), if a group health plan subject to COBRA fails to comply with section 162(k), each employer maintaining the plan is denied a deduction for any contributions or other expenses paid or incurred in connection with any group health plan that it maintains. The deduction is denied for any taxable year of the taxpayer during which there are one or more days on which plan is not in compliance with section 162(k). Thus, if a failure to comply with section 162(k) arises in one taxable year of a taxpayer and is not corrected until after the beginning of the following taxable year, the deduction for contributions or expenses for both of those taxable years is denied. Section 162(i)(2) operates each taxable year to permanently deny a deduction for amounts paid or incurred in that year, and is applied before applying any provision of the Code that governs the timing of an otherwise available deduction. Examples of such provisions include sections 263A (capitalization and inclusion in inventory costs), 419 (treatment of funded welfare benefit plans), and 460 (special rules for long-term contracts). In addition, section 162(i)(2) operates with respect to each employer maintaining the group health plan, without regard to whether the employers are treated as a single employer (see Q&A–5 of this

section) and without regard to whether the failure to satisfy section 162(k) occurs with respect to only an employee of one of the employers. See Q&A–10 of this section regarding when an arrangement is treated as two or more separate group health plans.

(b) A failure of a group health plan to comply with section 162(k) that occurs before, and is not corrected by, the date that an employer maintaining the plan and another entity are first treated as a single employer under Q&A–5 of this section ("the combination date") will not result in a denial of a deduction to the other entity under paragraph (a) of this Q&A–3, so long as (1) the other entity did not also maintain the plan before the combination date, and (2) the failure is corrected before the end of the first taxable year of the other entity that begins after the combination date.

(c) The rules of this Q&A–3 are illustrated by the following examples:

Example 1: Plan A is a group health plan subject to COBRA that is maintained by two unrelated employers, X and Y. Section 162(k) became effective with respect to plan A before April 1, 1988. The taxable year of employer X ends on March 31, and the taxable year of employer Y ends on April 30. If Plan A fails to comply with section 162(k) on April 1, 1988, by not offering COBRA continuation coverage to a qualified beneficiary of an employee of employer X, and the failure is not corrected until June 1, 1988, both employers X and Y are disallowed deductions for their contributions and other expenses relating to all their group health plans (including any group health plan that is maintained only by employer X or only by employer Y) for each taxable year that includes one or more days of noncompliance. Thus, the disallowance applies to employer X for its taxable year ending March 31, 1989, and to employer Y for both its taxable year ending April 30, 1988, and its taxable year ending April 30, 1989. (However, see Q&A–10 of this section regarding when an arrangement is considered to be two or more separate group health plans.)

Example 2: Assume that companies Z and W are treated as a single employer under section 414(b) at all relevant times (see Q&A–5 of this section), that Z maintains group health plans P and Q, that W maintains group health plans R and S, and that none of these plans is excepted from COBRA (see Q&A–8 of this section). Assume further that the taxable year of company Z ends on May 31, that the taxable year of company W ends on July 31, and that section 162(k) becomes effective with respect to the group health plans as follows: for plan P on February 1, 1987; for plan Q on April 1, 1987; and for plans R and S on July 1, 1987. If at any time during February through May of 1987 plan P is not in compliance with section 162(k), then company Z is disallowed all deductions with respect to plans P and Q for its taxable year ending May 31, 1987, and company W is disallowed all deductions with respect to plans R and S for its taxable year ending July 31, 1987.

Example 3: Assume that a group health plan maintained only by M, a calendar year employer, is subject to COBRA and fails to comply with section 162(k) during February of 1988, that the failure is corrected during April of 1988, and that on June 1, 1988 employer M becomes a wholly-owned subsidiary of N, a previously unrelated corporation with a taxable year ending July 31. For 1988, M is disallowed a deduction for all its contributions with respect to any group health plan. Because M and N were not treated as a single employer (see Q&A–5 of this section) during the period of noncompliance by M's plan (i.e., February to April of 1988), the failure of M's plan to comply with section 162(k) during that period will not result in a disallowance of any deductions to N, the new parent corporation. Even if the failure to comply that arises in February of 1988 is not corrected until after June 1, 1988, it will not result in a disallowance of any deductions to N, so long as the failure to comply is corrected by July 31, 1989 (the end of N's first taxable year that begins after June 1, 1988). However, if the failure is not corrected until August of 1989, N will be disallowed a deduction for all its contributions with respect to any group health plan for its taxable years ending on July 31 of 1988, 1989, and 1990. Also, if another failure of M's plan to comply with section 162(k) arises on or after June 1, 1988, that second failure will result in a disallowance of deductions to N.

Example 4: Assume that a calendar year employer maintaining a group health plan through a welfare benefit fund contributes $800,000 to the fund in 1988 and $500,000 in 1989. Assume further that only $600,000 of the 1988 contribution would be deductible under section 419 for 1988, and that the remaining $200,000 would be deemed to be contributed in 1989 and deductible under section 419 for 1989 along with the $500,000 actually contributed in that year. However, the deduction under section 419 is only available if these amounts are otherwise deductible under section 162. Therefore, if at any time during 1988 the group health plan is not in compliance with section 162(k), the $800,000 contributed in 1988 is disallowed in full as a deduction for 1988 and for all later years. However, if the plan does comply with section 162(k) throughout 1988 but at some time during 1989 is not in compliance, the $600,000 deduction for 1988 is unaffected while the $700,000 otherwise deductible for 1989 is permanently disallowed.

Question 4: How is the gross income of certain individuals affected by a group health plan's failure to comply with section 162(k)?

Answer 4: (a) Under section 106(a), employer-provided coverage under an accident or health plan is generally excluded from the gross income of an employee. Under section 106(b), however, if a group health plan that is subject to COBRA fails to comply with section 162(k), certain individuals shall have certain employer-provided coverage included in their gross income for each of their taxable years during which the plan is not in compliance, even if the coverage would otherwise be excludable from income under section 106(a). The individuals referred to in the preceding sentence consist of each person who is, at any time during which the plan is not in compliance with section 162(k), a highly compensated employee (within the meaning of section 414(q) and the regulations under that section) of any employer maintaining the plan. The coverage included in the individual's gross income for each such taxable year shall consist of all coverage provided by the employer to the individual and his or her spouse and dependent children during that taxable year under any group health plan (other than a plan that is excepted from COBRA—see Q&A–8 of this section). For purposes of section 106(b) and this Q&A–4, whether an individual is a highly compensated employee shall be determined on the basis of plan years or any alternative period permitted under section 414(q) and the regulations under that section. As used in the preceding sentence, "plan year" means the plan year as defined in Q&A–13 of this section.

(b) A failure of a group health plan to comply with section 162(k) that occurs before, and is not corrected by, the date that an employer maintaining the plan and another entity are first treated as a single employer under Q&A–5 of this section ("the combination date") will not result in an income inclusion for highly compensated employees of the other entity under paragraph (a) of this Q&A–4, so long as (1) the other entity did not also maintain the plan before the combination date, and (2) the failure is corrected before the end of the first taxable year of the other entity that begins after the combination date.

(c) The rules of this Q&A–4 are illustrated by the following examples, in which it is assumed that all individuals are calendar year taxpayers:

Example 1: Employer Z maintains group health plan T, and maintains no other group health plans. If plan T fails to comply with section 162(k) on November 10, 1988, and the failure is not corrected until February 15, 1989, each individual who is a highly compensated employee of Z at any time from November 10, 1988, through February 15, 1989, shall have coverage included in gross income for that individual's 1988 and 1989 taxable years. If the individual was covered under plan T throughout those years, the coverage included in 1988 is all coverage provided by employer Z under plan T on behalf of the individual and the individual's family during 1988, and the coverage included in 1989 is all coverage provided by employer Z under plan T on behalf of the individual and the individual's family during 1989.

Example 2: The facts are the same as in Example 1, except that employer Z's highly compensated employees are covered under plan U. Even if plan U complies with section 162(k) at all times, each individual who is a highly compensated employee of Z at any time for November 10, 1988, through February 15, 1989 (the period of plan T's noncompliance), shall have coverage included in gross income for that individual's 1988 and 1989 taxable years. If the individual was covered under plan U throughout those years, the coveage included in 1988 is all coverage provided by employer Z under plan U on behalf of the individual and the individual's family during 1988, the coverage included in 1989 is all coverage provided by employer Z under plan U on behalf of the individual and the individual's family during 1989.

Example 3: The facts are the same as in Example 1, except that the failure to comply with section 162(k) is corrected on December 20, 1988, rather than on February 15, 1989. The income inclusion for highly compensated employees applies only for the 1988 taxable year and only to those individuals who are highly compensated employees of Z at some time from November 10 to December 20, 1988.

Example 4: The facts are the same as in Example 1. In addition, employer W maintains group health plan V, and maintains no other group health plans. Employer W's taxable year ends on May 31. Employer W becomes a wholly-owned subsidiary of employer Z on December 1, 1988. Plan T's failure to comply with section 162(k) that arises on November 10, 1988, does not result in an income inclusion to any of employer W's highly compensated employees because the failure is corrected on February 15, 1989, which is before May 31, 1990 (the end of employer W's first taxable year that begins after December 1, 1988). However, if another failure of Plan T to comply with section 162(k) arises on December 15, 1988, and that failure to comply is also corrected on February 15, 1989, each employee of employer W who is a highly compensated employee at any time from December 15, 1988, through February 15, 1989, is also subject to the income inclusion set forth in this Q&A–4.

Question 5: What is the employer?

Answer 5: For purposes of this § 1.162–26 and sections 106(b), 162(i), and 162(k), the term "employer" refers to the employer and any entity that is a member of a group described in section 414(b), (c), (m), or (o) that includes the employer, and to any successor of either the employer or such an entity. However, the rule of this Q&A–5 does not apply for purposes of determining whether a group health plan is a small-employer plan (see Q&A–9 of this section).

Question 6: How does COBRA apply to a group health plan before the effective date of this section?

Answer 6: This section is proposed to be effective when final regulations that include it are published in the **Federal Register** as a Treasury decision. Group health plans become subject to the COBRA continuation coverage requirements at different times, however, as set forth in Q&A–11 of this section. With respect to qualifying events that occur on or after the date that a plan became or becomes subject to those requirements and before the effective date of final regulations, the plan and the employer must operate in good faith compliance with a reasonable interpretation of the statutory requirements (i.e., title X of COBRA). For the period before the effective date of final regulations, the Internal Revenue Service will consider compliance with the terms of these proposed regulations to constitute good faith compliance with a reasonable interpretation of the statutory requirements (other than the statutory requirements regarding the computation of the applicable premium or the treatment, under section 9501 of the Omnibus Budget Reconciliation Act of 1986, of certain bankruptcies as qualifying events, which are not addressed in these proposed regulations). Moreover, plans and employers will be considered to be in compliance with the terms of these proposed regulations if, between June 15, 1987 and September 14, 1987, they operate in good faith compliance with a reasonable interpretation of the statutory requirements and, from September 15, 1987 until the effective date of final regulations, they operate in compliance with the terms of these proposed regulations. In addition, the Internal Revenue Service will not consider actions inconsistent with the terms of these proposed regulations necessarily to constitute a lack of good faith compliance with a reasonable interpretation of the statutory requirements; whether there has been good faith compliance with a reasonable interpretation of the statutory requirements will depend on all the facts and circumstances of each case.

Which Plans Must Comply and When

Question 7: What is a group health plan?

Answer 7: (a) A group health plan is any plan maintained by an employer to provide medical care (as defined in section 213(d)) to the employer's employees, former employees, or the families of such employees or former employees, whether directly or through insurance, reimbursement, or otherwise, and whether or not provided through an on-site facility (except as set forth in paragraph (e) of this Q&A-7), or through a cafeteria plan (as defined in section 125) or other flexible benefit arrangement. For purposes of this Q&A-7, insurance includes not only group insurance policies but also one or more individual insurance policies in any arrangement that involves the provision of medical care to two or more employees. A plan "maintained by an employer" is any plan of, or contributed to (directly or indirectly) by, an employer. Thus, a group health plan is "maintained by an employer," regardless of whether the employer contributes to it, if coverage under the plan would not be available at the same cost to an employee in the event that he or she were not employed by the employer. However, a plan that is maintained by an employee representative is not "maintained by an employer" if the employer does not contribute to the plan and has no involvement (e.g., payroll checkoff) in the operation of the plan. See Q&A-10 of this section for rules governing when a single arrangement is considered to be two or more separate group health plans.

(b) Medical care (as defined in section 213(d)) includes the diagnosis, cure, mitigation, treatment, or prevention of disease, and any other undertaking for the purpose of affecting any structure or function of the body. Medical care also includes transportation primarily for and essential to medical care as described in the preceding sentence. However, medical care does not include anything that is merely beneficial to the general health of an individual, such as a vacation. Thus, if an employer maintains a program that furthers general good health, but the program does not relate to the relief or alleviation of health or medical problems and is generally accessible to and used by employees without regard to their physical condition or state of health, that program is not considered a program that provides medical care and so is not a group health plan for purposes of this section.

(c) For example, if an employer maintains a spa, swimming pool, or exercise/fitness program that is normally accessible to and used by employees for reasons other than relief of health or medical problems, such a facility would not constitute medical care. In contrast, if the employer maintains a drug or alcohol treatment program or a health clinic, or any other facility or program that is intended to relieve or alleviate a physical condition or health problem (whether the condition or problem is chronic or acute), the facility or program is considered to be the provision of medical care and so is considered a group health plan for purposes of this section.

(d) Whether a benefit provided to employees constitutes medical care is not affected by whether the benefit is excludable from income under section 132 (relating to certain fringe benefits). For example, if a department store provides its employees discounted prices on all merchandise, including health care items such as drugs or eyeglasses, the mere fact that the discounted prices also apply to health care items will not cause the program to be a plan providing medical care, so long as the discount program would normally be accessible to and used by employees without regard to health needs or physical condition. If, however, the employer maintaining the discount program is a health clinic, so that the program is used exclusively by employees with health or medical needs, the program is considered as a plan providing medical care and so is considered a group health plan for purposes of this section.

(e) The provision of medical care at a facility that is located on the premises of an employer does not constitute a group health plan if (1) the medical care consists primarily of first aid that is provided during the employer's working hours for treatment of a health condition, illness, or injury that occurs during those working hours, (2) the medical care is available only to the employer's current employees, and (3) employees are not charged for the use of the facility.

Question 8: What group health plans are subject to COBRA?

Answer 8: (a) All group health plans are subject to COBRA (i.e., subject to section 162(k)) except group health plans described in section 106(b)(2). However, a group health plan is not subject to COBRA before the effective date prescribed for that plan in Q&A–11 of this section.

(b) The following group health plans are described in section 106(b)(2): (1) Small-employer plans (see Q&A–9 of this section), (2) church plans (within the meaning of section 414(e)), and (3) governmental plans (within the meaning of section 414(d)). Plans that are described in section 106(b)(2) are referred to in this § 1.162–26 as "excepted from COBRA." The income inclusion rule of section 106(b)(1), the deduction denial rule of section 162(i), and the continuation coverage requirements of section 162(k) do not apply with respect to group health plans that are excepted from COBRA. Certain governmental plans, however, are governed by parallel requirements that were added by section 10003 of COBRA to the Public Health Service Act, which is administered by the Department of Health and Human Services.

Question 9: What is a small.employer plan?

Answer 9: (a) A "small-employer plan" is a group health plan maintained by one or more employers where each of the employers maintaining the plan for a calendar year normally employed fewer than 20 employees during the preceding calendar year. For purposes of this definition, each employer maintaining the plan shall, in combination with all other entities under common control with that employer (as determined under section 52 (a) and (b)), be considered a single employer. See Q&A–10 of this section for rules governing when a single arrangement is considered to be two or more separate group health plans.

(b) An employer is considered as having normally employed fewer that 20 employees during a particular calendar year if, and only if, it had fewer than 20 employees on at least 50 percent of its working days during that year.

(c) In determining the number of its employees, an employer shall treat as employees all full-time and part-time employees, and all employees within the meaning of section 401(c)(1). For example, partners in a law firm are treated as employees for this purpose. An employer shall also treat as employees for this purpose all agents and independent contractors (and their employees, agents, and independent contractors, if any), and all directors (in the case of a corporation), but only if such individuals are eligible to participate in a group health plan maintained by the employer.

(d) The determination of whether a plan is a small-employer plan on any particular date depends on which employers are maintaining the plan on that date and on the workforce of those employers during the preceding calendar year. If a plan that is otherwise subject to COBRA ceases to be a small-employer plan because of the addition during a calendar year of an employer that did not normally employ fewer than 20 employees on a typical business day during the preceding calendar year, the plan ceases to be excepted from COBRA and section 162(k) becomes effective with respect to it immediately upon the addition of the new employer. In contrast, if the plan ceases to be a small-employer plan by reason of an increase during a calendar year in the workforce of an employer maintaining the plan, the plan ceases to be excepted from COBRA and section 162(k) becomes effective with respect to it on the January 1 immediately following the calendar year in which the employer's workforce increased. However, a plan described in the preceding sentence will be treated as not having become subject to section 162(k) on that January 1 (i.e., still excepted from COBRA) if all the employers who did not normally employ fewer than 20 employees in the preceding calendar year have ceased to maintain the plan by February 1 immediately following that January 1. For example, if each employer maintaining a group health plan normally employs fewer than 20 employees during each of 1986 and 1987 but two of the employers do not normally employ fewer than 20 employees during 1988, the entire plan becomes subject to COBRA and must begin to comply with section 162(k) on January 1, 1989, even if the plan year is not a calendar year, unless those two employers depart from the plan before February 1, 1989.

Question 10: When is an arrangement considered to be two or more separate group health plans rather than a single group health plan?

Answer 10: (a) The rules below in paragraphs (b) through (g) of this Q&A-10 determine when an arrangement is considered to be two or more separate group health plans. If more than one of those paragraphs applies to a particular arrangement, the paragraphs are applied in succession to break the arrangement into the smallest possible group health plans. For example, if an arrangement offers high option and low option benefit schedules (see paragraph (c)) and constitutes a multiple employer welfare arrangement maintained by three different employers (see paragraph (d)), the arrangement consists of six separate group health plans: Three high-option plans (one for each employer) and three low-option plans (one for each employer).

(b) The rules in this Q&A-10 apply without regard to whether the arrangement is maintained by one or more than one employer. Moveover, the fact that a particular arrangement has been traditionally referred to as a single plan or has reported as a single plan (e.g., by filing a single Form 5500) is not controlling in the determination of whether the arrangement will be considered as two or more separate plans for purposes of section 162(k). All references elsewhere in this section to a "group health plan" are references to a separate group health plan as determined under this Q&A-10. The identification of separate group health plans is relevant to determinations such as those involving which coverage must be separately electable, the effective

date of section 162(k), which employers will be denied deductions in the event of a failure to comply with section 162(k), the cost of continuation coverage, and the availability of the exception for small-employer plans (see Q&A-9 of this section). The relevance of treating an arrangement as two or more separate group health plans is illustrated by the following examples:

Example 1: If an employee is covered under more than one group health plan at the time of a qualifying event, the qualified beneficiaries must be offered an opportunity to elect COBRA continuation coverage with respect to each of the plans. In contrast, if the arrangement in which the employee participates is treated as a single group health plan with several features, no individual features of the plan would have to be made available to a qualified beneficiary unless the qualified beneficiary elects coverage under the entire plan. (But see Q&A-24 of this section regarding the election to receive only core coverage.)

Example 2: If an arrangement that involves many employers is considered to be a single group health plan, that plan will fail to qualify for the small-employer plan exception if any one of those employers had too many employees during the preceding calendar year. However, if the arrangement is considered to be a separate plan with respect to each employer, then the exception would be available for each of those particular employers that normally employed fewer than 20 employees during the preceding calendar year.

Example 3: An arrangement covering the employees of unrelated employers A and B fails to comply with section 162(k) by failing to offer COBRA continuation coverage to an employee of employer A, but complies with section 162(k) in all other respects. If the arrangement consists of two separate group health plans, one covering the employees of A and one covering the employees of B, employer A will lose deductions under section 162(i) and A's highly compensated employees will lose the benefit of the section 106(a) exclusion, but employer B and its employees will be unaffected. In contrast, if the arrangement consists of a single group health plan, the consquences of failing to comply with section 162(k) will apply to both employers A and B.

(c) Each different benefit package or option offered under an arrangement is treated as a separate group health plan. For this purpose, self-only coverage and self-and-family coverage are not considered to be separate packages or options. The rule of this paragraph (c) is illustrated by the following examples:

Example 1: If an arrangement offers "high option" and "low option" benefit schedules and the alternatives of self-only and self-and-family coverage, the arrangement is considered to be two separate plans: One offering high option coverage (whether self-only or self-and-family), and one offering low option coverage (whether self-only or self-and-family).

Example 2: If two types of coverage differ only because one has a $100 deductible and the other has a $250 deductible, or because one has a $1500 catastrophic limit and the other has a $2500 catastrophic limit, each type of coverage is a different benefit package and so is treated as a separate group health plan.

Example 3: An arrangement has a deductible equal to 1 percent of compensation, but consists of a single plan in all other respects. The fact that employees with different levels of compensation will have different deductibles will not cause the arrangement to be treated as separate group health plans for each resulting deductible.

Example 4: If an arrangement consists of a single plan in all respects except that an employee can choose to have either hospital benefits or hospital benefits combined with mental health benefits, there are two separate plans: One providing hospital coverage, and one providing hospital-and-mental-health coverage. If an employee could instead choose independently whether to have hospital benefits and whether to have mental-health benefits, there would also be two separate plans: One providing hospital-only coverage and one providing mental-health-only coverage. In such a case an employee receiving both hospital and mental-health benefits would be covered under two separate group health plans and would have separate COBRA election rights under each plan.

(d) An arrangement that constitutes a multiple employer welfare arrangement as defined in section 3(40) of the Employee Retirement Income Security Act of 1974 (ERISA), is considered a separate group health plan with respect to each employer maintaining the arrangement. Solely for purposes of this paragraph (d), the rules of section 3(40)(B) of ERISA (regarding trades or businesses under common control) shall apply in determining whether two or more employers are treated as a single employer.

(e) In the case of an insured arrangement, if two or more groups of employees are covered under separate contracts between a participating employer or employers and an insurer or insurers, each separate contract is considered a separate group health plan, even if the coverage under the separate contracts is identical.

(f) In the case of a self-funded arrangement, each segregated portion of the arrangement shall be considered a separate group health plan. A portion of an arrangement is a segregated portion if and only if (1) assets available to pay benefits under that portion are unavailable to pay benefits under any other portion, and (2) assets available to pay benefits under any other portion are unavailable to pay benefits out of that portion. For example, if several employers contribute to a trust that provides medical benefits but each employee's benefits are payable only out of contributions (and earnings on contributions) made by that employee's employer, each employer's portion of the arrangement is considered a separate group health plan. The rule of this paragraph (f) shall apply whether or not a trust is used, and whether or not the arrangement is partially insured through stop-loss insurance, insurance for some but not all benefits, or some other method.

(g) Arrangements providing medical benefits are broken down as described in Q&A-12 of this section into their collectively bargained portion (if any) and non-collectively-bargained portion (if any), each of which is considered a separate group health plan.

Question 11: When must group health plans comply with section 162(k)?

Answer 11: (a) *Non-collectively bargained plans:* For plans that are not excepted from COBRA (see Q&A–8 of this section) and that do not constitute collectively bargained group health plans (see Q&A–12 of this section), the requirements of section 162(k) apply as of the first day of the first plan year beginning on or after July 1, 1986. For example, if such a plan has a February 1 to January 31 plan year, it must begin to comply with section 162(k) by February 1, 1987.

(b) *Collectively bargained plans:* For plans that are not excepted from COBRA and that constitute collectively bargained group health plans (see Q&A–12 of this section), the requirements of section 162(k) apply as of the first day of the first plan year beginning on or after the later of (1) January 1, 1987, or (2) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after April 7, 1986). This rule is illustrated by the following example:

Example: Assume that the plan year of a collectively bargained group health plan is the calendar year and that, as of April 7, 1986, the plan is maintained pursuant to three collective bargaining agreements having expiration dates in October 1987, February 1988, and July 1988. The plan must comply with section 162(k) beginning on January 1, 1989. Of course, the plan must begin to comply by January 1, 1987, with respect to a collective bargaining unit that was not, as of April 7, 1986, covered by one of those three agreements.

Question 12: What is a collectively bargained group health plan?

Answer 12: (a) A collectively bargained group health plan is a group health plan covering only employees

and former employees (and their families) who are covered by an agreement that is a collective bargaining agreement entered into between employee representatives and one or more employers (as determined under section 7701(a)(46)). Thus, if an arrangement that would otherwise be considered to be a single group health plan under the standards set out in Q&A–10 of this section covers both (1) employees and former employees (and their families) who are covered by a collective bargaining agreement described in the preceding sentence and (2) employees and former employees (and their families) who are not covered by such an agreement, the arrangement consists of two separate group health plans: one plan that is a collectively bargained group health plan and one that is not. The plan that is collectively bargained will have an effective date determined under paragraph (b) of Q&A–11 of this section, and the other plan will have an effective date determined under paragraph (a) of Q&A–11 of this section. For example, if the plan year is the calendar year and the only collective bargaining agreement in effect as of April 7, 1986, expires March 31, 1988, the effective date of section 162(k) is January 1, 1989, for the plan covering bargaining-unit employees and their families, and January 1, 1987, for the plan covering the other employees and their families.

(b) For purposes of this Q&A–12, employees of an employee representative that is a party to a collective bargaining agreement described in paragraph (a) of this Q&A–12, and employees of a trust or fund maintained to pay benefits to individuals covered by the collective bargaining agreement, are considered to be employees covered by that collective bargaining agreement. Thus, a plan that is otherwise considered a single, collectively bargained plan will not fail to be a single, collectively bargained plan merely because it also covers employees or former employees (and their families) of the employee representative or of a trust or fund from which the benefits are paid.

Question 13: What is the plan year of a group health plan?

Answer 13: (a) For purposes of determining when a group health plan must begin to comply with section 162(k) (see Q&A–11 of this section), the plan year of a group health plan is the year that is designated as the plan year in the plan document. However, if the plan document does not designate a plan year, or if there is no plan document, the plan year is determined under paragraph (b) of this Q&A–13. The designation of a plan year on a Form 5500 filed by a group health plan is not controlling in the determination of the plan year under this Q&A–13.

(b) If the plan year of a group health plan is determined under this paragraph (b), the plan year is the plan's limit/deductible year except that (1) in the case of an insured group health plan, the plan year is the policy year if that is later than the limit/deductible year or if the plan has no limit/deductible year, and (2) in the case of a self-funded group health plan having no limit/deductible year, the plan year is the later of the calendar year or the employer's taxable year. For purposes of this paragraph (b), a plan's "limit/deductible year" means the year that is used by the plan in applying benefit limits and deductibles, except that if different years are used for benefit limits and for deductibles, it means the later of those years. For purposes of this paragraph (b), one year is "later" than another if it begins later in relation to the underlying date from which the effective date of section 162(k) is determined for the plan under Q&A–11 of this section. Compare, for example, a year that begins on March 1 with a year that begins on December 1. The March 1 year is later than a December 1 year in the case of a non-collectively-bargained plan, because the first March 1 occurring on or after July 1, 1986, is March 1, 1987, which is later than December 1, 1986 (the first December 1 occurring on or after July 1, 1986). If, however, the plan is a collectively-bargained plan and becomes subject to section 162(k) for the first plan year beginning on or after February 1, 1987, a December 1 year is later than a March 1 year.

Question 14: How do the COBRA continuation coverage requirements apply to cafeteria plans and other flexible benefit arrangements?

Answer 14: The provision of medical care through a cafeteria plan (as defined in section 125) or other flexible benefit arrangement constitutes a group health plan. However, the COBRA continuation coverage requirements of section 162(k) apply only to those medical benefits under the cafeteria plan or other arrangement that a covered employee has actually chosen to receive (if any). The application of this rule to a cafeteria plan is illustrated by the following examples:

Example 1: Under the terms of a cafeteria plan, employees can choose among life insurance coverage, membership in a Health Maintenance Organization (HMO), coverage for medical expenses under an indemnity arrangement, and cash compensation. Of these available choices, the HMO and the indemnity arrangement constitute separate group health plans. Assume that these group health plans are subject to COBRA (see Q&A–8 of this section) and that the employer does not provide any group health plan outside of the cafeteria plan. Assume further that B and C are unmarried employees, that B has chosen the life insurance coverage, and that C has chosen the indemnity arrangement. B does not have to be offered COBRA continuation coverage upon terminating employment, nor must a subsequent open enrollment period for active employees be made available to B. However, if C terminates employment and the termination constitutes a qualifying event, C must be offered an opportunity to elect COBRA continuation coverage under the indemnity arrangement. If C makes such an election and an open enrollment period for active employees occurs while C is still receiving the COBRA continuation coverage, C must be offered the opportunity to switch from the indemnity arrangement to the HMO (but not to the life insurance coverage because that does not constitute a group health plan).

Example 2: An employer maintains a group health plan under which all employees receive employer-paid coverage. Employees can arrange to cover their families by paying an additional amount. The employer also maintains a cafeteria plan, under which one of the options is to pay part or all of the charge for family coverage under the group health plan. Thus, an employee might pay for family coverage under the group health plan partly with before-tax dollars and partly with after-tax dollars. If an employee's family is receiving coverage under the group health plan when a qualifying event occurs, each of the qualified beneficiaries must be offered an opportunity to elect COBRA continuation coverage, regardless of how that qualified beneficiary's coverage was paid for before the qualifying event.

Example 3: One of the choices available under a cafeteria plan is an individual medical expense reimbursement arrangement. At the beginning of each calendar year, an employee can choose, instead of being paid a specified dollar amount of compensation, to have that amount placed in an account to be used for reimbursement of medical expenses incurred during the year by the employee or the employee's spouse or dependent children. Any amount remaining in the account as of the end of the year is forfeited. The reimbursement of medical expenses through these arrangements constitutes a group health plan.

Qualified Beneficiaries

Question–15: Who is a qualified beneficiary?

Answer–15: (a) Except as set forth in paragraphs (b) through (d) of this Q&A–15, a qualified beneficiary is any individual who, on the day before a qualifying event, is covered under a group health plan maintained by the employer of a covered employee by virtue of being on that day either (1) the

covered employee, (2) the spouse of the covered employee, or (3) the dependent child of the covered employee.

(b) An individual is not a qualified beneficiary if, on the day before the qualifying event referred to in paragraph (a) of this Q&A–15, the individual (1) is covered under the group health plan by reason of another individual's election of COBRA continuation coverage and is not already a qualified beneficiary by reason of a prior qualifying event, or (2) is entitled to Medicare benefits under Title XVIII of the Social Security Act.

(c) A covered employee can be a qualified beneficiary only in connection with a qualifying event that consists of the termination (other than by reason of the covered employee's gross misconduct), or reduction of hours, of the covered employee's employment.

(d) An individual is not a qualified beneficiary if the individual's status as a covered employee is attributable to a period in which the individual was a nonresident alien who received no earned income (within the meaning of section 911(d)(2)) from the individual's employer that constituted income from sources within the United States (within the meaning of section 861(a)(3)). If, pursuant to the preceding sentence, an individual is not a qualified beneficiary, then a spouse or dependent child of the individual shall not be considered a qualified beneficiary by virtue of the relationship to the individual.

Question–16: Who is a covered employee?

Answer–16: (a) A covered employee is any individual who is (or was) provided coverage under a group health plan (other than a plan that is excepted from COBRA on the date of the qualifying event; see Q&A–8 of this section) by virtue of the individual's employment or previous employment with an employer. For example, a retiree or former employee who is covered by such a group health plan is a covered employee if the coverage results in whole or in part from his or her previous employment. An individual (whether a present or former employee) who is merely eligible for coverage under a group health plan is not a covered employee if the individual is not and has not been actually covered under the plan. The reason for an individual's lack of actual coverage (such as the individual's having declined participation in the plan or failed to satisfy the plan's conditions for participation) is not relevant for this purpose.

(b) The following individuals are also covered employees, but only if they are (or were) actually covered under a group health plan by virtue of their relationship to an employer maintaining the plan, and only if that plan or some other group health plan maintained by the employer covers one or more common-law employees of the employer: (1) Employees within the meaning of section 401(c)(1), (2) agents and independent contractors (and their employees, agents, and independent contractors), and (3) directors (in the case of a corporation). The rule of this paragraph (b) is illustrated by the following example:

Example: A law firm maintains a group health plan for its common-law employees. If the firm also provides group health coverage for its partners, the partners are covered employees regardless of whether their coverage is provided under the same group health plan as the common-law employees or under a separate plan. In contrast, if the partners are the only individuals who receive any health coverage, they are not covered employees.

Question 17: Other than those individuals who are qualified beneficiaries as of the day before a qualifying event, can any other person (such as a newborn or adopted child or a new spouse) obtain qualified beneficiary status for COBRA continuation coverage purposes?

Answer 17: (a) No. The group of qualified beneficiaries entitled to elect COBRA continuation coverage as a result of a qualifying event is closed as of the day before the qualifying event. Thus, newborn children, adopted children, and spouses who join the family of a qualified beneficiary after that day do not become qualified beneficiaries. The new family members do not themselves become qualified beneficiaries even if they become covered under the plan. (For situations in which a plan is required to make coverage available to new family members of a qualified beneficiary who is receiving COBRA continuation coverage, see Q&A–31 of this section and paragraph (c) of Q&A–30 of this section.)

(b) A qualified beneficiary who fails to elect COBRA continuation coverage in connection with a qualifying event ceases to be a qualified beneficiary at the end of the election period (see Q&A–32 of this section). Thus, for example, if such a former qualified beneficiary is later added to a covered employee's coverage (e.g., during an open enrollment period) and then another qualifying event occurs with respect to the covered employee, the former qualified beneficiary will not be treated as a qualified beneficiary

(c) The rules of this Q&A–17 are illustrated by the following examples:

Example 1: Assume that A is a single employee who voluntarily terminates employment and properly elects COBRA continuation coverage under a group health plan. Under the terms of the plan, a covered employee who marries can choose to have his or her spouse covered under the plan as of the date of marriage. One month after electing COBRA continuation coverage, A marries and chooses, to cover A's spouse under the plan. A's spouse is not a qualified beneficiary. Thus, if A dies during the period of COBRA continuation coverage, the plan does not have to offer A's surviving spouse an opportunity to elect COBRA continuation coverage.

Example 2: Assume that B is a married employee who terminates employment, B properly elects COBRA continuation coverage for B but not B's spouse, and B's spouse declines to elect such coverage. B's spouse thus ceases to be a qualified beneficiary. Later, at the next open enrollment period, B adds the spouse as a beneficiary under the plan. The addition of the spouse during the open enrollment period does not make the spouse a qualified beneficiary. The plan will thus not have to offer the spouse an opportunity to elect COBRA continuation coverage upon a later divorce from or death of B.

Example 3: Assume that, under the terms of a group health plan, a covered employee's child ceases to be a dependent eligible for coverage upon attaining age 18. At that time, the child must be offered an opportunity to elect COBRA continuation coverage. If the child elects COBRA continuation coverage, the child marries during the period of the COBRA continuation coverage, and the child's spouse becomes covered under the group health plan, the child's spouse would not become a qualified beneficiary upon a later qualifying event as a result of that coverage.

Example 4: Assume that C is a single employee who, upon retirement, is given the opportunity to elect COBRA continuation coverage but declines it in favor of an alternative offer of 12 months of employer-paid retiree health benefits. C ceases to be a qualified beneficiary and will not have to be given another opportunity to elect COBRA continuation coverage at the end of those 12 months. Assume further that C marries D during the period of retiree health coverage and, under the terms of that coverage, D becomes covered under the plan. If a divorce from or death of C will result in D's losing coverage, D will be a qualified beneficiary because D's coverage under the plan on the day before the qualifying event (i.e., the divorce) will have been by reason of C's acceptance of 12 months of employer-paid coverage after the prior qualifying event (C's retirement) rather than by reason of an election of COBRA continuation coverage.

Example 5: Assume the same facts as in Example 4 except that, under the terms of the plan, the divorce or death does not cause D to lose coverage so that D continues to be covered for the balance of the original 12-month period. D does not have to be allowed to elect COBRA continuation coverage because the divorce of death does not

constitute a qualifying event. See Q&A–18 of this section.

Qualifying Events

Question 18: What is a qualifying event?

Answer 18: (a) A qualifying event is an event that satisfies paragraphs (b), (c), and (d) of this Q&A–18.

(b) An event satisfies this paragraph (b) if the event is either (1) the death of a covered employee, (2) the termination (other than by reason of the employee's gross misconduct), or reduction of hours, of a covered employee's employment, (3) the divorce or legal separation of a covered employee from the employee's spouse, (4) a covered employee becoming entitled to Medicare benefits under Title XVIII of the Social Security Act, or (5) a dependent child ceasing to be a dependent child of the covered employee under the generally applicable requirements of the plan. In the case of a covered employee who is not a commonlaw employee, termination of "employment" for this purpose means termination of the relationship (e.g., directorship of a corporation or membership in a partnership) giving rise to the individual's treatment as a covered employee under paragraph (b) of Q&A–16 of this section.

(c) An event satisfies this paragraph (c) if, under the terms of the group health plan, the event causes the covered employee, or the spouse or a dependent child of the covered employee, to lose coverage under the plan. For this purpose, to "lose coverage" means to cease to be covered under the same terms and conditions as in effect immediately before the qualifying event. If coverage is reduced or eliminated in anticipation of an event, the reduction or elimination is disregarded in determining whether the event causes a loss of coverage. Moreover, for purposes of this paragraph (c), a loss of coverage need not occur immediately after the event, so long as the loss of coverage will occur before the end of the maximum coverage period (see Q&A–39 and Q&A–40 of this section). However, if neither the covered employee nor the spouse or a dependent child of the covered employee will lose coverage before the end of what would be the maximum coverage period, the event does not satisfy this paragraph (c).

(d) An event satisfies this paragraph (d) if it occurs while the plan is subject to COBRA. Thus, an event will not satisfy this paragraph (d) if it occurs before the plan becomes subject to section 162(k) (see Q&A–11 of this section) or while the plan is excepted from COBRA (see Q&A–8). See Q&A–20 and Q&A–21 of this section.

(e) The rules of this Q&A–18 are illustrated by the following examples, each of which assumes that paragraph (d) is satisfied:

Example 1: If an employee who is covered by a group health plan terminates employment (other than by reason of the employee's gross misconduct) and, as of the date of separation, is given 3 months of employer-paid coverage under the same terms and conditions as before that date, the termination is a qualifying event because it satisfies both paragraphs (b) and (c) of this Q&A–18.

Example 2: Upon the retirement of an employee who, along with the employee's spouse, has been covered under a group health plan, the employee is given identical coverage for life but the spousal coverage will not be continued beyond 6 months unless premiums are then paid by the employee or spouse. The spouse will "lose coverage" 6 months after the employee's retirement when the premium requirement takes effect, so the retirement is a qualifying event and the spouse must be given an opportunity to elect COBRA continuation coverage.

Example 3: F is a covered employee who is married to G, and both are covered under a group health plan maintained by F's employer. F and G are divorced and, under the terms of the plan, the divorce will cause G to lose coverage. The divorce is a qualifying event. If G elects COBRA continuation coverage and then remarries during the period of COBRA continuation coverage, G's new spouse might become covered under the plan. (See Q&A–31 of this section and paragraph (c) of Q&A–30 of this section.) However, G's later death or divorce from G's new spouse will not be a qualifying event because G is not a covered employee.

Question 19: Can a qualifying event result from a voluntary termination of employment?

Answer 19: Yes. Apart from gross misconduct, the facts surrounding a termination or reduction of hours are irrelevant. It does not matter whether the employee voluntarily terminated or was discharged. For example, a strike or walkout is a termination or reduction of hours that constitutes a qualifying event if the strike or walkout results in a loss of coverage as described in paragraph (c) of Q&A–18 of this section. Similarly, a layoff that results in such a loss of coverage is a qualifying event.

Question 20: Can a qualifying event occur before the effective date of section 162(k) (as described in Q&A–11 of this section)?

Answer 20: No. An event that occurs before section 162(k) becomes effective for a group health plan does not satisfy paragraph (d) of the definition of qualifying event in Q&A–18 of this section. A group health plan does not have to offer individuals whose coverage ends as a result of such an event the opportunity to elect COBRA continuation coverage. For example, if an employee terminated employment on July 15, 1986, and the plan covering the employee had a November 1 to October 31 plan year (so that the plan became subject to section 162(k) on November 1, 1986), the plan does not have to permit the employee to elect COBRA continuation coverage. Even if that employee is given 6 months of additional coverage from the July 15, 1986, termination date (whether merely as a result of the terms of the plan, or pursuant to state or local law or otherwise) so that the coverage extends beyond the November 1 effective date, the employee does not have to be given the opportunity to elect COBRA continuation coverage at the end of the 6 months' coverage because there will be no qualifying event at that time. In contrast, if the employee's spouse is covered by the 6 months' coverage and, as a result of the employee's death after the November 1 effective date and before the end of the 6–month period, the spouse will lose coverage for the balance of the 6–month period, the death will constitute a qualifying event and the spouse will be a qualified beneficiary entitled to elect COBRA continuation coverage. See Q&A–42 of this section regarding the maximum coverage period in such a case.

Question 21: Can a qualifying event occur while a group health plan is excepted from COBRA (see Q&A–8 of this section)?

Answer 21: No. An event that occurs while a group health plan is excepted from COBRA does not satisfy paragraph (d) of the definition of qualifying event in Q&A/18 of this section. Even if the plan later becomes subject to COBRA, it does not have to provide COBRA election rights to anyone whose coverage ends as a result of such an event. For example, if a group health plan is excepted from COBRA as a small-employer plan during 1988 (see Q&A–9 of this section) and an employee terminates employment on December 31, 1988, the termination is not a qualifying event and the plan does not have to permit the employee to elect COBRA continuation coverage. This is the case even if the plan ceases to be a small-employer plan as of January 1, 1989. Also, the same result will follow even if the employee is given 3 months of coverage beyond December 31 (i.e., through March of 1989), because there will be no qualifying event as of the termination of coverage in March. However, if the employee's spouse is initially provided with the 3-month coverage through March 1989, but the spouse divorces the employee before the end of the 3 months and loses coverage

as a result of the divorce, the divorce will constitute a qualifying event during 1989 and so entitle the spouse to elect COBRA continuation coverage. See Q&A–42 of this section regarding the maximum coverage period in such a case.

COBRA Continuation Coverage

Question 22: What is COBRA continuation coverage?

Answer 22: If a qualifying event occurs, each qualified beneficiary (other than a qualified beneficiary for whom the qualifying event will not result in any immediate or deferred loss of coverage) must be offered an opportunity to elect to continue to receive the group health plan coverage that he or she received immediately before the qualifying event. This continued coverage is "COBRA continuation coverage." Except as set forth in Q&A–23 through Q&A–31 of this section, if the continuation coverage offered differs in any way from the coverage enjoyed immediately before the qualifying event, the coverage offered does not constitute COBRA continuation coverage and the group health plan is not in compliance with section 162(k) unless other coverage that does constitute COBRA continuation coverage is also offered. Any elimination or reduction of coverage in anticipation of a qualifying event is disregarded for purposes of this Q&A–22 and for purposes of any other reference in this section to coverage in effect immediately before (or on the day before) a qualifying event. COBRA continuation coverage must not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

Question 23: How is COBRA continuation coverage affected by changes in the coverage that is provided to similarly situated beneficiaries with respect to whom a qualifying event has not occurred?

Answer 23: COBRA continuation coverage must generally be the same as the group health plan coverage enjoyed by the qualified beneficiary immediately before the qualifying event. However, if the coverage provided to similarly situated active employees is changed or eliminated but the employer continues to maintain one or more group health plans (so that the qualified beneficiary's COBRA continuation coverage cannot be terminated at that time—see Q&A–37 of this section), the employer must permit the qualified beneficiary receiving COBRA continuation coverage to elect to be covered under any of the remaining group health plans maintained by the employer or similarly situated active employees. If the coverage of the qualified beneficiary was subject to deductibles and the change in coverage occurs before the end of the prescribed period for accumulating such deductibles, the new coverage selected by the qualified beneficiary must credit him or her with the amounts incurred under the original coverage. The rule in the preceding sentence also applies to those limits that are in the nature of deductibles, such as copayment limits or catastrophic limits on a covered individual's out-of-pocket expenses. The qualified beneficiary can be charged the amount determined under Q&A–44 of this section for the coverage selected.

Question 24: Can a group health plan require a qualified beneficiary who wishes to receive COBRA continuation coverage to elect to receive a continuation of all of the coverage that he or she was receiving under the plan immediately before the qualifying event?

Answer 24: (a) In general, no. A qualified beneficiary who, immediately before the qualifying event, is covered by a plan that provides both core coverage and non-core coverage must be able to elect to receive either (1) the coverage that he or she had immediately before the qualifying event (including the core coverage and any non-core coverage), or (2) the core coverage only. However, there are two exceptions to this rule, as set forth in paragraphs (b) and (c) of this Q&A–24.

(b) If the applicable premium for core coverage would be at least 95 percent of the applicable premium for core coverage and non-core coverage combined, the plan does not have to offer qualified beneficiaries the opportunity to elect core coverage only. (See Q&A–44 of this section regarding the applicable premium.)

(c) If an employer maintaining a group health plan that includes non-core coverage also maintains at least one other group health plan for similarly situated active employees that does not provide any non-core coverage, the plan that includes non-core coverage does not have to offer a qualified beneficiary an opportunity to elect core coverage only. However, the qualified beneficiary must instead be offered the opportunity to elect coverage under any other group health plan maintained by the employer for similarly situated active employees.

Question 25: What is core coverage?

Answer 25: (a) "Core coverage" means all of the coverage that a qualified beneficiary was receiving under the group health plan immediately before a qualifying event that gives rise to the qualified beneficiary's COBRA election rights, other than "non-core coverage." "Non-core coverage" means coverage for vision benefits and dental benefits. However, coverage for vision benefits or dental benefits that must be provided under applicable law is core coverage.

(b) For purposes of this Q&A–25, vision benefits include only those benefits related to vision care of a type that is not required under local law to be performed by a physician.

(c) For purposes of this Q&A–25, dental benefits does not include any benefits for dental care or oral surgery in connection with an accidental injury.

(d) The definitions in this Q&A–25 apply only for purposes of this § 1.162–26 and sections 106, 162(i)(2), and 162(k) of the Code.

Question 26: Must a qualified beneficiary be given an opportunity to elect core coverage plus only one of two non-core coverages that the qualified beneficiary had under the plan immediately before the qualifying event?

Answer 26: No. A group health plan is required only to offer qualified beneficiaries the right to elect (a) core coverage, or (b) core coverage plus all non-core coverages that the qualified beneficiary had immediately before the qualifying event. Thus, a qualified beneficiary who has core coverage plus vision and dental coverage upon the occurrence of a qualifying event must be offered the opportunity to continue either the core coverage or the core coverage and both dental and vision coverage. Such a qualified beneficiary would not have to be offered the opportunity to elect core coverage plus vision coverage only or core coverage plus dental coverage only. Of course, if the vision and dental coverage are provided under two separate plans that are independent of the core plan, a qualified beneficiary would be able to continue one or both of the coverages. Assume, for example, that an employer maintains three group health plans—a core plan, a vision plan, and a dental plan—and that each active employee can elect to be covered under one or more of the three plans. (Thus, an employee could have vision-only, dental-only, or core-only coverage, or any combination of the three.) A qualified beneficiary who is covered under all three plans at the time of a qualifying event would have separate election rights with respect to each plan, and so would be able to elect coverage under the dental-only and core-only plans.

Question 27: Must a qualified beneficiary who is covered under a single plan providing both core coverage and non-core coverage be offered the opportunity to elect non-core coverage only?

Answer 27: No. A qualified beneficiary who is covered by a single plan providing both core coverage and non-core coverage need not be offered the opportunity to elect only non-core coverage. Of course, if immediately before the qualifying event the qualified beneficiary is covered by a group health plan that provides non-core coverage but no core coverage, the qualified beneficiary must be offered the opportunity to continue that non-core coverage. Moreover, such an individual generally would not have to be given the opportunity to elect core coverage. (But see Q&A–30 of this section regarding open enrollment periods.)

Question 28: What deductibles apply if COBRA continuation coverage is elected?

Answer 28: (a) Qualified beneficiaries electing COBRA continuation coverage are generally subject to the same deductibles as similarly situated employees for whom a qualifying event has not occurred. If a qualified beneficiary's COBRA continuation coverage begins before the end of the prescribed period for accumulating amounts toward deductibles, the qualified beneficiary must retain credit for expenses incurred toward those deductibles before the beginning of COBRA continuation coverage as though the qualifying event had not occurred. The specific application of this rule depends on the type of deductible, as set forth in paragraphs (b) through (d) of this Q&A–28. Special rules are set forth in paragraphs (e) and (f), and examples appear in paragraph (g).

(b) If a deductible is computed separately for each individual receiving coverage under the plan, each individual's remaining deductible amount (if any) on the date that COBRA continuation coverage begins is equal to that individual's remaining deductible amount immediately before that date.

(c) If a deductible is computed on a family basis, the deductible for each new family unit after the beginning of COBRA continuation coverage (or the existing family unit, in the case of a qualifying event that does not result in there being more than one family unit) is computed as follows: On the date that COBRA continuation coverage begins, the remaining deductible amount for each new family unit (or the remaining number of individual deductibles, in the case of a family deductible that is satisfied by completing a specified number of individual deductibles) is equal to the preexisting family unit's remaining deductible amount (or remaining number of individual deductibles, as applicable) immediately before that date. This rule applies regardless of whether the plan provides that the family deductible is an alternative to individual deductibles or an additional requirement.

(d) Deductibles that are not described in paragraphs (b) or (c) of this Q&A–28 must be treated in a manner consistent with the principles set forth in those paragraphs.

(e) If a deductible is computed on the basis of a covered employee's compensation instead of being a fixed dollar amount, the plan can treat the employee's compensation as frozen for the duration of the COBRA continuation coverage at the level that was used to compute the deductible in effect immediately before the COBRA continuation coverage began.

(f) If a single deductible is prescribed for core coverage and non-core coverage and a qualified beneficiary electing COBRA continuation coverage elects to receive core coverage only, the treatment of expenses for non-core coverage depends on when the expenses were incurred, as follows: If the expenses were incurred before the beginning of COBRA continuation coverage, they must continue to be counted toward satisfaction of the deductible, but they need not be counted if they were incurred after the begining of COBRA continuation coverage.

(g) The rules of the Q&A–28 are illustrated by the following examples; in each example it is assumed that deductibles are determined on a calendar year basis:

Example 1: A group health plan applies a separate $100 annual deductible to each individual whom it covers. The plan provides that the spouse and dependent children of a covered employee will lose coverage on the last day of the month after the month of the covered employee's death. A covered employee dies on June 11, 1988. The spouse and the two dependent children elect COBRA continuation coverage, which will begin on August 1, 1988. As of July 31, 1988, the spouse has incurred $80 of covered expenses, the older child has incurred no covered expenses, and the younger one has incurred $120 (i.e., already satisfied the deductible). At the beginning of COBRA continuation coverage on August 1, the spouse has a remaining deductible of $20, the older child still has the full $100 deductible, and the younger one has no further deductible.

Example 2: A group health plan applies a separate $200 annual deductible to each individual whom it covers, except that each family member will be treated as having satisfied the individual deductible once the family has incurred $500 of covered expenses during the year. The plan provides that upon the divorce of a covered employee, coverage will end immediately for the employee's spouse and any children who do not remain in the employee's custody. Assume that a covered employee with four dependent children is divorced, that the spouse obtains custody of the two oldest children, and that the spouse and those children all elect COBRA continuation coverage to begin immediately. Assume also that the family had accumulated $420 of covered expenses before the divorce, as follows: $70 by each parent, $200 by the oldest child, $80 by the youngest child, and none by the other two children. Each new family unit after the divorce (i.e., the employee plus two children, still receiving regular coverage under the plan, and the spouse plus two children, receiving COBRA continuation coverage) has a remaining family deductible amount of $80 ($500 minus $420).

Example 3: The facts are the same as in Example 2, except that the family deductible is defined as two individual $200 deductibles instead of a $500 aggregate (i.e., the plan disregards all remaining individual deductibles after the satisfaction of any two individual deductibles). Before the divorce, the family has satisfied one individual deductible (the oldest child's). At the beginning of COBRA continuation coverage, therefore, each new family unit is treated as having already satisfied one individual deductible even though the oldest child is included in only one of the new family units.

Example 4: Each year a group health plan pays 70 percent of the cost of an individual's psychotherapy after that individual's first three visits. A qualified beneficiary who elects COBRA continuation coverage beginning August 1, 1988, and has already made two visits as of that date need only pay for one more visit before the plan must begin to pay 70 percent of the cost of the remaining visits during 1988.

Example 5: A group health plan has a $250 annual deductible per covered individual. The plan provides that if the deductible is not satisfied in a particular year, expenses incurred during October through December of that year are credited toward satisfaction of the deductible in the next year. A qualified beneficiary who has incurred covered expenses of $150 from January through September of 1988 and $40 during October elects COBRA continuation coverage begining November 1, 1988. The remaining deductible amount for this qualified beneficiary is $60 at the beginning of the COBRA continuation coverage. If this individual incurs covered expenses of $50 in November and December of 1988 combined (so that the $250 deductible for 1988 is not satisfied), the $90 incurred from October through December of 1988 are credited toward satisfaction of the deductible amount for 1989.

Question 29: How do a plan's limits apply to COBRA continuation coverage?

Answer 29: (a) Limits are treated in the same way as deductibles (see Q&A–28 of this section). This rule applies both to limits on plan benefits (e.g., a maximum number of hospital days or dollar amount of reimbursable expenses) and limits that are in the nature of deductibles (e.g., a copayment limit, or a catastrophic limit on a covered employee's out-of-pocket

expenses). This rule applies equally to annual and lifetime limits.

(b) The rule of this Q&A–29 is illustrated by the following examples; in each example it is assumed that limits are determined on a calendar year basis:

Example 1: A group health plan pays for a maximum of 150 days of hospital confinement per individual per year. A covered employee who has had 20 days of hospital confinement as of May 1, 1989, terminates employment and elects COBRA continuation coverage as of that date. During the remainder of 1989 the plan need only pay for a maximum of 130 days of hospital confinement for this individual.

Example 2: A group health plan reimburses a maximum of $20,000 of covered expenses per family per year, and the same $20,000 limit applies to unmarried covered employees. A covered employee and spouse who have no children divorce on May 1, 1989, and the spouse elects COBRA continuation coverage as of that date. If the employee and spouse together incurred $15,000 of reimbursable expenses during January through April of 1989, each of these individuals has a $5,000 maximum benefit for the remainder of 1989, regardless who incurred what portion of the $15,000.

Example 3: A group health plan pays for 80 percent of covered expenses after satisfaction of a $100-per-individual deductible, and 100 percent of them after a family has incurred out-of-pocket costs of $2,000. An employee and spouse with three dependent children divorce on June 1, 1989, and one of the children remains with the employee. The spouse elects COBRA continuation coverage as of that date for the spouse and the other two children. During January through May of 1989, all five individual deductibles were satisfied and the family incurred $4,000 of covered expenses, resulting in out-of-pocket expenses totalling $1,200 (five $100 deductibles, plus the non-reimbursed 20 percent of the other $3,500, or $700). For the remainder of 1989, each new family unit has an out-of-pocket limit of $800.

Question 30: Can a qualified beneficiary who elects COBRA continuation coverage ever change from the coverage received by that individual immediately before the qualifying event?

Answer 30: (a) In general, a qualified beneficiary need only be given an opportunity to continue the coverage that he or she was receiving immediately before the qualifying event. This is true regardless of whether the coverage received by the qualified beneficiary before the qualifying event ceases to be of value to the qualified beneficiary, such as in the case of a qualified beneficiary covered under a region-specific Health Maintenance Organization (HMO) who leaves the HMO's service region. The only situations in which a qualified beneficiary must be allowed to change from the coverage received immediately before the qualifying event are as set forth in paragraphs (b) and (c) of this Q&A–30, in Q&A–24 of this section (regarding core coverage), and in Q&A–23 of this section (regarding changes to or elimination of the coverage provided to similarly situated active employees).

(b) If a qualified beneficiary participates in a region-specific plan (such as an HMO or an on-site clinic) that will not service his or her health needs in the area to which he or she is relocating (regardless of the reason for the relocation) and the employer has employees in the area to which the qualified beneficiary relocates, the qualified beneficiary must be given an opportunity to elect alternative coverage if (and on the same basis as) a similarly situated active employee who transfers to that new location while continuing to work for the employer would be given the opportunity to elect alternative coverage at the time of transfer.

(c) If an employer maintains more than one group health plan and an open enrollment period is available to similarly situated active employees with respect to whom a qualifying event has not occurred, the same open enrollment period rights must be available to each qualified beneficiary receiving COBRA continuation coverage. An open enrollment period means a period during which an employee covered under a plan can choose to be covered under another group health plan, or to add or eliminate coverage of family members.

(d) The rules of this Q&A–30 are illustrated by the following examples:

Example 1: Assume that (1) E is an employee who works for an employer that maintains several group health plans; (2) under the terms of the plans, if an employee chooses to cover any family members under a plan, all family members must be covered by the same plan and that plan must be the same as the plan covering the employee; (3) immediately before E's termination of employment (for reasons other than gross misconduct), E is covered along with E's spouse and children by a plan that provides only core coverage, and (4) the coverage under that plan will end as a result of the termination of employment. Upon E's termination of employment, each of the four family members is a qualified beneficiary. Even though the employer maintains various other plans and options, it is not necessary for the qualified beneficiaries to be allowed to switch to a new plan when E terminates employment. Assume further that none of the four family members declines to elect COBRA continuation coverage, and that 3 months after E's termination of employment there is an open enrollment period during which similarly situated active employees are offered an opportunity to choose to be covered under a new plan or to add or eliminate family coverage. During the open enrollment period, each of the four qualified beneficiaries must be offered the opportunity to switch to another plan (as though each beneficiary were an individual employee). For example, each member of E's family could choose coverage under a separate plan, even though the family members of employed individuals could not choose coverage under separate plans. Of course, if each family member chooses COBRA continuation coverage under a separate plan, each family member can be required to pay an amount for that coverage that is based on the applicable premium for individual coverage under that separate plan. See Q&A–44 of this section.

Example 2: The facts are the same as in Example 1, except that E's family members are not covered under E's group health plan when E terminates employment. Although the family members do not have to be given an opportunity to elect COBRA continuation coverage, E must be allowed to add them to E's COBRA continuation coverage during the open enrollment period. This is true even though the family members are not, and cannot become, qualified beneficiaries (see Q&A–17 of this section).

Question 31: Aside from open enrollment periods, can a qualified beneficiary who has elected COBRA continuation coverage choose to cover individuals (such as newborn children, adopted children, or new spouses) who join the qualified beneficiary's family on or after the date of the qualifying event?

Answer 31: If the plan covering the qualified beneficiary provides that such new family members of active employees can become covered (either automatically or upon an appropriate election) before the next open enrollment period, then the same right must be extended to the new family members of a qualified beneficiary. Of course, if the addition of a new family member will result in a higher applicable premium (e.g., if the qualified beneficiary was previously receiving COBRA continuation coverage as an individual, or if the applicable premium for family coverage depends on family size), the plan can require the qualified beneficiary to pay a correspondingly higher amount for the COBRA continuation coverage. See Q&A–44 of this section.

Electing COBRA Continuation Coverage

Question 32: What is the minimum period during which a group health plan must allow a qualified beneficiary to elect COBRA continuation coverage (i.e., the election period)?

Answer 32: A group health plan can condition the availability of COBRA continuation coverage upon a qualified beneficiary's timely election of such coverage. An election of COBRA continuation coverage is a timely election if it is made during the election period. The election period must begin

on or before the date that the qualified beneficiary would lose coverage on account of the qualifying event. (See paragraph (c) of Q&A–18 of this section for the meaning of "lose coverage.") The election period must not end before the date that is 60 days after the later of (a) the date that the qualified beneficiary would lose coverage on account of the qualifying event, or (b) the date that the qualified beneficiary is sent notice of his or her right to elect COBRA continuation coverage. An election is considered to be made on the date that it is sent to the employer or plan administrator. The rules of this Q&A–32 are illustrated by the following example:

Example: An unmarried employee who is receiving employer-paid coverage under a group health plan voluntarily terminates employment on June 1, 1988. *Case 1:* If the plan provides that the employer-paid coverage ends immediately upon the termination of employment, the election period must begin on or before June 1, 1988, and must not end earlier than July 31, 1988. If the notice of the right to elect COBRA continuation coverage is not sent to the employee until June 15, 1988, the election period must not end earlier than August 14, 1988. *Case 2:* If the plan provides that the employer-paid coverage does not end until 6 months after the termination of employment, the employee does not lose coverage until December 1, 1988. The election period can therefore begin as late as December 1, 1988, and must not end before January 30, 1989. *Case 3:* If employer-paid coverage for 6 months after the termination of employment is offered only to those qualifed beneficiaries who waive COBRA continuation coverage, the employee "loses coverage" on June 1, 1988, so the election period is the same as in Case 1. The difference between Case 2 and Case 3 is that in Case 2 the employee can receive 6 months of employer-paid coverage and then elect to pay for up to an additional 12 months of COBRA continuation coverage, while in Case 3 the employee must choose between 6 months of employer-paid coverage and paying for up to 18 months of COBRA continuation coverage. In all three cases, COBRA continuation coverage need not be provided for more than 18 months after the termination of employment (see Q&A–39 of this section), and in certain circumstances might be provided for a shorter period (see Q&A–38 of this section).

Question 33: Must a covered employee or qualified beneficiary inform the employer or plan administrator of the occurrence of a qualifying event?

Answer 33: In general, the employer or plan administrator must determine when a qualifying event has occurred. However, each covered employee or qualified beneficiary is responsible for notifying the employer or other plan administrator of the occurrence of a qualifying event that is either a dependent child ceasing to be a dependent child of the covered employee or a divorce or legal separation of a covered employee. If the notice is not sent to the employer or other plan administrator within 60 days after the later of (a) the date of the qualifying event, or (b) the date that the qualified beneficiary would lose coverage on account of the qualifying event, the group health plan does not have to offer the qualified beneficiary an opportunity to elect COBRA continuation coverage. For purposes of this Q&A-33, if more than one qualified beneficiary would lose coverage on account of a divorce or legal separation of a covered employee, a timely notice of the divorce or legal separation that is sent by the covered employee or any one of those qualified beneficiaries will be sufficient to preserve the election rights of all of the qualified beneficiaries.

Question 34: During the election period and before the qualified beneficiary has made an election, must coverage be provided?

Answer 34: (a) In general, each qualified beneficiary has until at least 60 days after the date that the qualifying event would cause him or her to lose coverage to decide whether to elect COBRA continuation coverage. If the election is made during that period, coverage must be provided from the date that coverage would otherwise have been lost (but see Q&A-35 of this section). This can be accomplished as described in paragraph (b) or (c) of this Q&A-34.

(b) In the case of an indemnity or reimbursement arrangement, the employer can provide for plan coverage during the election period or, if the plan allows retroactive reinstatement, the employer can drop the qualified beneficiary from the plan and reinstate him or her when the election is made. Of course, claims incurred by a qualified beneficiary during the election period do not have to be paid before the election (and, if applicable, payment for the coverage) is made.

(c) In the case of a group health plan that provides health services (such as a Health Maintenance Organization or a walk-in clinic), the plan can require that a qualified beneficiary who has not yet elected and paid for COBRA continuation coverage choose between (1) electing and paying for the coverage or (2) paying the reasonable and customary charge for the plan's services, but only if a qualified beneficiary who chooses to pay for the services will be reimbursed for that payment within 30 days after electing COBRA continuation coverage (and, if applicable, paying any balance due for the coverage). In the alternative, the plan can provide continued coverage and treat the qualified beneficiary's use of the facility as a constructive election. In such a case, the qualified beneficiary is obligated to pay any applicable charge for the coverage, but only if the qualified beneficiary is informed of the meaning of the constructive election before using the facility.

Question 35: Is a waiver before the end of the election period effective to end a qualified beneficiary's election rights?

Answer 35: A qualified beneficiary who, during the election period, waives COBRA continuation coverage can revoke the waiver at any time before the end of the election peirod. However, if a qualified beneficiary who waives COBRA continuation coverage later revokes the waiver, coverage need not be provided retroactively (i.e., from the date of the loss of coverage until the waiver is revoked). Waivers and revocations of waivers are considered made on the date that they are sent to the employer or plan administrator, as applicable.

Question 36: Can an employer withhold money or other benefits owed to a qualified beneficiary until the qualified beneficiary either waives COBRA continuation coverage, elects and pays for such coverage, or allows the election period to expire?

Answer 36: No. An employer must not withhold anything to which a qualified beneficiary is otherwise entitled (by operation of law or other agreement) in order to compel payment for COBRA continuation coverage or to coerce the qualified beneficiary to give up rights to COBRA continuation coverage (including the right to use the full election period to decide whether to elect such coverage). Such a withholding constitutes a failure to comply with section 162(k), and any purported waiver obtained by means of such a withholding is invalid.

Question 37: Can each qualified beneficiary make an independent election under COBRA?

Answer 37: Yes. Each qualified beneficiary must be offered the opportunity to make an independent election to receive COBRA continuation coverage and, if applicable, an independent election (a) to receive COBRA continuation coverage that is limited to core coverage and (b) to switch to another group health plan during an open enrollment period. However, if a qualified beneficiary who is either a covered employee or the spouse of a covered employee makes an election to provide any other qualified beneficiary with COBRA continuation

coverage (whether for core coverage only or core plus non-core coverage), the election shall be binding on that other qualified beneficiary. An election on behalf of a minor child can be made by the child's parent or legal guardian. An election on behalf of a qualified beneficiary who is incapacitated or dies can be made by the legal representative of the qualified beneficiary or the qualified beneficiary's estate, as determined under applicable state law, or by the spouse of the qualified beneficiary. The rules of this Q&A–37 are illustrated by the following examples:

Example 1: Assume that employee H and H's spouse are covered under a group health plan immediately before H's termination of employment (for reasons other than gross misconduct), the plan provides only core coverage, and the coverage under the plan will end as a result of the termination of employment. Upon H's termination of employment both H and H's spouse are qualified beneficiaries and each must be allowed to elect COBRA continuation coverage. Thus, H might elect COBRA continuation coverage while the spouse declines to elect such coverage. However, if H elects to provide COBRA continuation coverage for both of them, that election is binding on the spouse, and the spouse cannot decline COBRA continuation coverage. In contrast, H cannot decline COBRA continuation coverage on behalf of H's spouse. Thus, if H does not elect COBRA continuation coverage on behalf of the spouse, the spouse must still be allowed to elect COBRA continuation coverage.

Example 2: The facts are the same as in Example 1, except that coverage under the plan includes both core coverage and non-core coverage, and H and H's spouse have two dependent children who are also covered under the plan immediately before H's termination of employment. All four family members are qualified beneficiaries, each of whom must be offered the opportunity to elect COBRA continuation coverage either with or without non-core coverage. One possible result, therefore, is for the children to continue their full coverage while the parents continue only core coverage. This result can be achieved in a variety of ways, including separate elections by each family member, or a single election by H that binds the entire family.

Duration of COBRA Continuation Coverage

Question 38: How long must COBRA continuation coverage be available to a qualified beneficiary?

Answer 38: Except for an interruption of coverage in connection with a waiver as described in Q&A–35 of this section, COBRA continuation coverage that has been elected by a qualified beneficiary must extend for at least the period beginning on the date of the qualifying event and ending not before the earliest of the following dates: (a) The last day of the maximum coverage period (see Q&A–39 of this section); (b) the first day for which timely payment is not made to the plan with respect to the qualified beneficiary (see Q&A–48 of this section); (c) the date upon which the employer ceases to maintain any group health plan (including successor plans); (d) the first date after the date of the election upon which the qualified beneficiary is covered (i.e., actually covered, rather than merely eligible to be covered) under any other group health plan that is not maintained by the employer, even if that other coverage is less valuable to the qualified beneficiary than COBRA continuation coverage (e.g., if the other coverage provides no benefits for preexisting conditions); or (e) the date the qualified beneficiary is entitled to Medicare benefits under Title XVIII of the Social Security Act. However, a group health plan can terminate for cause the coverage of a qualified beneficiary receiving COBRA continuation coverage on the same basis that the plan terminates for cause the coverage of similarly situated active employees with respect to whom a qualifying event has not occurred. For purposes of the preceding sentence, termination for cause does not include termination based on a failure to make timely payment to the plan. (See Q&A–48 of this section regarding timely payment.)

Question 39: When does the maximum coverage period end?

Answer 39: The maximum coverage period ends (a) 18 months after the qualifying event, if the qualifying event that gives rise to COBRA continuation coverage election rights is a termination or reduction of hours; and (b) 36 months after the qualifying event, for any other type of qualifying event. The end of the maximum coverage period is measured from the date of the qualifying event even if the qualifying event does not result in a loss of coverage under the plan until some later date. See also Q&A–40 of this section in the case of multiple qualifying events. Nothing in section 162(k) or this section prohibits a group health plan from proving coverage that continues beyond the end of the maximum coverage period.

Question 40: Can the maximum coverage period ever be expanded?

Answer 40: No, with one exception. The exception involves a qualifying event that gives rise to an 18–month maximum coverage period and is followed, within that 18–month period, by a second qualifying event (e.g., a death or divorce). In such a case, the original 18–month period is expanded to 36 months, but only for those individuals who were qualified beneficiaries under the group health plan as of the first qualifying event and were covered under the plan at the time of the second qualifying event. No qualifying event can give rise to a maximum coverage period that ends more than 36 months after the date of the first qualifying event. For example, if an employee covered by a group health plan that is subject to COBRA terminates employment (for reasons other than gross misconduct) on December 31, 1987, the termination is a qualifying event giving rise to a maximum coverage period that extends for 18 months to June 30, 1989. If the employee dies after the employee and the employee's spouse and dependent children have elected COBRA continuation coverage and before June 30, 1989, the spouse and children (except anyone among them whose COBRA continuation coverage had already ended for some other reason) will be able to elect COBRA continuation coverage through December 31, 1990.

Question 41: If coverage is provided to a qualified beneficiary after a qualifying event without regard to COBRA continuation coverage (e.g., as a result of state or local law, industry practice, a collective bargaining agreement, or plan procedure), will such alternative coverage extend the maximum coverage period?

Answer 41: (a) The alternative coverage will not extend the maximum coverage period. The end of the maximum coverage period is measured solely from the date of the qualifying event, as described in Q&A–39 and Q&A–40 of this section.

(b) If the alternative coverage does not satisfy all the requirements for COBRA continuation coverage, the group health plan covering the qualified beneficiary immediately before the qualifying event is not in compliance with section 162(k) unless the qualified beneficiary receiving the alternative coverage was also offered the opportunity to elect COBRA continuation coverage and rejected COBRA continuation coverage in favor of the alternative coverage. At the end of that alternative coverage, the individual need not be offered a COBRA election. However, if the individual is a covered employee and the spouse or a dependent child of the individual would lose that alternative coverage as a result of a qualifying event (such as the death of the covered employee), the spouse or dependent child must be given an opportunity to elect to continue that alternative coverage, with a maximum coverage period of 36 months measured from the date of that qualifying event.

(c) If the alternative coverage does satisfy the requirements for COBRA continuation coverage, it can be credited toward satisfaction of the 18- or 36-month maximum coverage period. Moreover, in the case of a covered employee who receives more than 18 months of alternative coverage that satisfies the requirements for COBRA continuation coverage, if the spouse or a dependent child of the covered employee loses coverage as a result of a second qualifying event (such as the death of the covered employee) that occurs after the 18–month period, that spouse or dependent child need not be given an election to continue coverage.

Question 42: How can an event that occurs before a group health plan becomes subject to section 162(k) affect the maximum coverage period when a later, qualifying event occurs?

Answer 42: (a) If there are two events that satisfy the conditions set forth in paragraph (b) of this Q&A–42, then the first event is treated as though it were a qualifying event that occurred on the date that the plan became subject to section 162(k) (i.e., with a maximum coverage period that began on that date), so that the second event is not merely a qualifying event but a second qualifying event. This treatment applies solely for purposes of determining the maximum coverage period under Q&A–39 through Q&A–41 of this section in connection with that second qualifying event. It does not give rise to any right to elect COBRA continuation coverage in connection with the first event.

(b) The conditions referred to in paragraph (a) of this Q&A–42 are as follows: (1) The first event is listed in paragraph (b) of Q&A–18 of this section (regarding what is a qualifying event) but occurs before the date that the plan becomes subject to section 162(k), (2) the plan provides coverage to a qualified beneficiary after the first event that continues to or beyond the date that the plan becomes subject to section 162(k), and (3) a second event then occurs and is a qualifying event.

(c) The rule of this Q&A–42 is illustrated by the following examples:

Example 1: Assume that a group health plan became subject to section 162(k) on January 1, 1987. Employee F, who was covered by the plan, voluntarily terminated employment on January 1, 1986, and was given employer-paid coverage that would continue for 5 more years. F's spouse was also to be covered for the 5 years, except that the spouse's coverage would terminate upon divorce or F's death. F dies on January 1, 1988. F's death is a qualifying event, so F's spouse can elect COBRA continuation coverage (unless the election is precluded for some independent reason, such as the spouse's entitlement to Medicare benefits). F's termination of employment on January 1, 1986, is treated as though it were a qualifying event that occurred on January 1, 1987. F's death is thus a *second* qualifying event, for which the spouse's maximum coverage period ends on January 1, 1990 (i.e., 36 months after the first qualifying event). The spouse can thus elect up to 24 months of COBRA continuation coverage.

Example 2: Assume the same facts as in Example 1, except that F's death occurs after January 1, 1990. The plan does not have to give F's spouse an opportunity to elect COBRA continuation coverage.

Question 43: Must a qualified beneficiary be given the right to enroll in a conversion health plan at the end of the maximum coverage period for COBRA continuation coverage?

Answer 43: If a qualified beneficiary's COBRA continuation coverage under a group health plan ends as a result of the expiration of the maximum coverage period, the group health plan must, during the 180-day period that ends on that expiration date, provide the qualified beneficiary the option of enrolling under a conversion health plan if such an option is otherwise generally available to similarly situated active employees under the group health plan. If such a conversion option is not otherwise generally available, COBRA does not require that it be made available to qualified beneficiaries.

Paying for COBRA Continuation Coverage

Question 44: Can a qualified beneficiary be required to pay for COBRA continuation coverage?

Answer 44: Yes. For any period of COBRA continuation coverage, a group health plan can require a qualified beneficiary to pay an amount that does not exceed 102 percent of the applicable premium for that period. The "applicable premium" is defined in section 162(k)(4) of the Code. A group health plan can terminate a qualified beneficiary's COBRA continuation coverage as of the first day of any period for which timely payment is not made to the plan with respect to that qualified beneficiary (see Q&A–38 of this section). For the meaning of "timely payment," see Q&A–48 of this section.

Question 45: After a qualified beneficiary has elected COBRA continuation coverage under a group health plan, can the plan increase the amount that the qualified beneficiary must pay for COBRA continuation coverage?

Answer 45: Yes, if the applicable premium increases. However, the applicable premium for each determination period must be computed and fixed by the plan before the determination period begins. A determination period is any 12-month period selected by the plan, but it must be applied consistently from year to year. Thus, each qualified beneficiary does not have a separate determination period beginning on the date (or anniversaries of the date) that COBRA continuation coverage begins for that qualified beneficiary.

Question 46: Must a qualified beneficiary be allowed to pay for COBRA continuation coverage in installments?

Answer 46: Yes. A group health plan must allow a qualified beneficiary to pay for COBRA continuation coverage in monthly installments. A group health plan can also allow qualified beneficiaries the alternative of paying for COBRA continuation coverage at other intervals (e.g., quarterly or semiannually).

Question 47: Can a qualified beneficiary choose to have the first payment for COBRA continuation coverage applied prospectively only?

Answer 47: No. The first payment for COBRA continuation coverage is applied to the period of coverage beginning immediately after the date that coverage under the plan would have been lost on account of the qualifying event. Of course, if the group health plan allows a qualified beneficiary to waive COBRA continuation coverage for any period before electing to receive COBRA continuation coverage, the first payment is not applied to period of the waiver.

Question 48: What is timely payment for COBRA continuation coverage?

Answer 48: (a) If a qualified beneficiary's election of COBRA continuation coverage is made after the date of the qualifying event, timely payment for any COBRA continuation coverage during the period before the date of the election means payment that is made to the plan within 45 days after the date of the election. Timely payment for any other period of COBRA continuation coverage is governed by paragraph (b) of this Q&A–48.

(b) In general, timely payment for a period of COBRA continuation coverage under a group health plan means payment that is made to the plan by the date that is 30 days after the first day of that period. However, payment that is made to the plan by a later date is also considered timely payment if either (1) under the terms of the plan, covered employees or qualified beneficiaries are allowed until that later date to pay for their coverage during the period, or (2) under the terms of an arrangement between the employer and an insurance company, Health Maintenance

Organization, or other entity that provides plan benefits on the employer's behalf, the employer is allowed until that later date to pay for coverage of similarly situated employees during the period.

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

J. Roger Mentz,
Assistant Secretary of the Treasury.

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135

Special Flight Rules in the Vicinity of the Grand Canyon National Park; Final Rule; Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 135

[Docket No. 25149; SFAR No. 50-1]

Special Flight Rules in the Vicinity of the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: This action revises the procedures for operation of aircraft in the airspace above the Grand Canyon up to an altitude of 9,000 feet above mean sea level (MSL), and extends the duration of those procedures to June 15, 1992. In recent years, the high volume of air traffic over the park has increased the risk of midair collision. The overflights also generated noise impacts on park surface areas to a degree which may be inconsistent with Federal policies for operation of the park. The restrictions adopted will: (1) Retain the Special Flight Rules Area established by SFAR 50 from the surface to 9,000 feet MSL in the area of the Grand Canyon; (2) prohibit flights in this area unless operated in accordance with specific routes, altitudes, and procedures or otherwise specifically authorized by the local FAA Flight Standards District Office; (3) established boundaries of certain noise-sensitive areas of the Grand Canyon National Park to be avoided by aircraft overflight up to 9,000 feet MSL; and (4) establish certain terrain avoidance and communications requirements for flights in the area. The rules adopted will reduce the risk of midair collision, will reduce the risk of terrain contact accidents below the rim level, and will reduce the impact of aircraft noise on the park environment.

DATES: *Effective date:* June 15, 1987.

Comment date: Comments must be received on or before October 15, 1987.

Expiration date: Special Federal Aviation Regulation No. 50-1 expires on June 15, 1992.

ADDRESSES: Comments on the proposed permanent rule regulation may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25149, 800 Independence Avenue SW., Washington, DC 20591

or delivered in duplicate to:

FAA Rules Docket, 800 Independence Avenue SW., Washington, DC

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Comments Invited

Even though this rule is final, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire on any portion of the rule. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25149." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, APA-200, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-3479. Communications must identify the special rule number of the document.

Background

On December 4, 1986, the FAA issued Notice No. 86-21 (51 FR 44422; December 9, 1986) proposing to establish temporary flight restrictions in the vicinity of the Grand Canyon National Park (GCNP) up to an altitude of 9,000 feet above mean sea level (MSL). The notice also proposed a follow-on final rule to take effect upon expiration of the temporary Special Federal Aviation Regulation (SFAR) in June 1987. As proposed in Notice 86-21, the temporary SFAR would: (1) Establish a Special Flight Rules Area from the surface to 9,000 feet MSL in the area of the Grand Canyon; (2) prohibit flights in this area unless specifically authorized by the local FAA Flight Standards District Office; and (3) establish certain terrain avoidance and communications requirements for flights in the area. The proposed follow-on rule (which could also be an SFAR) would include, in addition to the general restrictions contained in the temporary rule: (1) Provisions to permit access to the special flight rules area by general aviation operators, and (2) if supported by evidence, provisions for avoidance of certain noise-critical sites in the park by low-flying aircraft.

The comment period for the temporary SFAR closed on January 10, 1987, and for the proposed follow-on rule on March 1, 1987.

On March 23, 1987, the FAA issued SFAR 50 (52 FR 9768, March 26, 1987), a temporary rule identical to the rule proposed in Notice 86-21. SFAR 50 reopened the comment period on Docket No. 25149 for public comment until April 15, 1987, to permit further comment based on the actual provisions of the temporary rule.

The Need for Regulatory Action

In proposing the flight restrictions, the FAA cited both operational reasons of safety and efficiency and environmental reasons arising from concern for the impact of aircraft noise on the Park surface.

Safety and Efficiency

The Grand Canyon constitutes an attraction to sightseers from the air as well as the ground, which results in an unusual level of air traffic in the airspace above the canyon. Because of the terrain of the canyon and the relatively low level of most sightseeing flights over the Grand Canyon, traffic over the canyon is not controlled by FAA air traffic control. The result is a situation in which a substantial number of aircraft operate in the same general airspace over the canyon under the flight rules that apply to sparsely populated areas and low traffic volume airspace. While the total area of the canyon is large, most sightseeing pilots are attracted to particular areas of the canyon, which increases the relative number of aircraft in those areas. Separation of aircraft in this airspace is accomplished only by the see-and-avoid responsibility of each pilot and, above 3,000 feet AGL, the 1,000-foot separation of eastbound and westbound traffic under 14 CFR 91.109.

While the safety record in the vicinity of the canyon compares favorably with the general accident rates for general aviation and air taxi operators, there have been accidents in the canyon itself. The most recent tour operator accident

was a collision between an air tour airplane and a tour helicopter in June 1986. The FAA attributes the relatively good safety record in the canyon area in large part to the voluntary use by the commercial tour operators, whose flights represent more than 80 percent of the lower-altitude traffic in the area, of standard route, altitude, and communications procedures. Because each tour operator flies a standard route over the canyon and periodically announces its location and altitude on a common radio frequency at designated reporting points, the pilot of each such aircraft is aware of the location of all other tour aircraft in the area.

Notwithstanding this past record, however, the FAA believes that there are two general reasons why some degree of additional regulation of canyon overflights is necessary. First, the existing procedures used by the air tour operators are voluntary and not regulatory. While some degree of control over Part 135 commercial operators can be exercised through the operations specifications of each operator, commercial air tours may be conducted under Part 91 by virtue of an exception to the applicability of Part 135. Section 135.1(b)(2) provides that a person conducting nonstop sightseeing flights within 25 miles of the airport at which the aircraft takes off and lands is not covered by Part 135.

Second, the voluntary procedures do not apply to general aviation and military flights. The voluntary procedures, therefore, have substantially contributed to the safe operation of commercial tour operators but have little safety benefit with respect to general aviation, military, and nonparticipating air tour operators. The FAA believes that there is a need to require that commercial operators use the standard procedures and to separate transient general aviation traffic from the regular tour operations through the designation of certain routes and altitudes for both Part 135 and non-Part 135 operators.

Noise Impact on the Surface

The FAA believes that there is also a public interest in promoting a quiet environment in the canyon and minimizing the intrusion of aircraft noise on this environment, consistent with operational air safety and efficiency considerations. Congress, in the Grand Canyon National Park Enlargement Act of 1975, expressly provided for protection of the natural quiet of the park. Under section 8 of the Act (16 U.S.C. 228g), if the Secretary of the Interior finds that aircraft or helicopter activity within the park is likely to cause a significant adverse effect on the "natural quiet and experience of the Park," he is required to submit recommendations to the Administrator of the FAA for measures to mitigate that impact.

The NPS held a series of public hearings in 1985 and 1986 and solicited comments from the public, including environmental groups and air tour operators, on the subject of aircraft operations at the canyon. Following the above process, the Department of the Interior, in a letter from the Assistant Secretary for Fish and Wildlife and Parks, submitted recommendations to the FAA Administrator on November 17, 1986. The Department did not find a significant impact of aircraft noise on the Park, but rather found that the data available was insufficient for management decisions or recommendations at this time. The Department, therefore, recommended specific actions relating to the safety of aircraft operations, but with respect to aircraft noise recommended further study. The recommendations may be summarized as follows:

(1) Adopt airspace/flight regulations which:
- —Provide for the separation of aircraft, including helicopters;
- —Prohibit flights in the inner gorge of the canyon;
- —Provide for some regulation of flights between the inner gorge and the upper rim of the canyon; and
- —Establish flight paths over the canyon which avoid major visitor overlooks and peregrine nesting areas.

(2) Install radar at the Grand Canyon National Park Airport to assist in aircraft separation;

(3) Undertake a joint 2-year study, with the NPS, of the impacts of aircraft noise on the Park with the object of additional regulation to reduce those impacts.

Finally, the Department offered to consult and cooperate with the FAA in the implementation of these actions.

Various provisions of this regulation implement each of the flight recommendations listed under (1) above. Also, in developing this regulation, the FAA consulted with the Office of the Secretary of the Interior and the National Park Service in the development of regulatory measures to mitigate noise impacts on certain areas of the Grand Canyon National Park. The FAA has agreed to provide all necessary technical assistance to the Department of Interior in the Department's study of aircraft noise at the Park, and the results of that study may be used to develop additional mitigation measures in the future. The recommendation to install radar at the Grand Canyon National Park Airport is still under review by the agency.

Comments on the Proposed SFAR

Comments on the long-term rule, as with those on the temporary rule now in effect, tended to address one of four general areas: The noise/environmental impact of aircraft operations on the Park; impact of the proposal on general aviation operations; impact of the proposal on commercial tour operations generally; and impact of the proposal on commercial helicopter operations.

Aircraft Noise—Minimum Altitudes

A majority of commenters, mostly individuals but also several major environmental groups, including the Audubon Society, the Sierra Club, and the Wilderness Society, stated that aircraft flights should not be permitted over the Grand Canyon or should be limited to altitudes above the rim of the canyon, or higher, to minimize aircraft noise in the Park. The Maricopa Audubon Society and the Sierra Club supported the "quiet canyon" option of prohibiting all aircraft flight above the Park to an altitude of 18,000 feet MSL. The National Parks and Conservation Association supported the need for regulations but urged that a minimum altitude be established at 2,000 feet above the uppermost rim level, in accordance with FAA Advisory Circular 91-36C. A river raft tour company requested a minimum overflight altitude of 7,500 MSL. Other commenters supported minimum flight altitudes from 2,000 feet above the rim to 40,000 feet MSL.

The National Park Service supported the issuance of regulations, but suggested that the regulations incorporate noise mitigation measures such as routing aircraft away from noise-sensitive areas. NPS also requested that the FAA use the definition of "rim level" developed by the NPS in its 1986 environmental assessment of the proposed GCNP Aircraft Management Plan—generally the uppermost rim of the canyon in each sector. Several commenters, including Senator John McCain, requested a minimum altitude of 2,000 feet above the rim as suggested in FAA Advisory Circular 91-36C.

A common theme in virtually all of the comments relating to minimum altitudes was some reference to the canyon rim. Many of the individual commenters simply requested no flights below the rim of the canyon. Other commenters

acknowledged the fact that the rim does not provide a usable altitude reference for pilots, and that any minimum altitude would need to be expressed in terms of feet above mean sea level (MSL). However, the rim was still cited as a benchmark for the establishment of such MSL altitudes. Few of the comments offered specific information relating mitigation of surface noise impacts to the restriction of aircraft flight to particular altitudes at near rim level elevations.

An exception was a "Sound Level Experiment" conducted by National Part Service personnel in August 1976. The results of the experiment were submitted to the docket by another commenter and do not necessarily represent National Park Service opinions or findings. Also, the procedure was conducted at one location on one day, with flyovers by one fixed-wing aircraft and one helicopter, and cannot be considered a comprehensive or authoritative study of aircraft noise impacts on the canyon surface. However, the report does provide some indication of the relative surface noise impacts of aircraft overflight below, at, and above rim level elevations.

The test involved multiple flyovers of a sound meter, set up on a plateau at 4,400 feet MSL, at altitudes of 6,400 feet MSL, 7,400 feet MSL, 9,500 feet MSL, 11,500 feet MSL, and 13,500 feet MSL. South rim elevation in the area was 7,400 MSL; river elevation in the area was 2,400 MSL. Flyovers were conducted by a fixed-wing single-engine Cessna 206 and a Bell 206 helicopter. Because FAA has not proposed to restrict flights above 9,000 feet MSL in this rulemaking, the 6,400 feet MSL and 7,400 feet MSL flyovers were of primary interest.

Measurements were taken in A-weighted decibels (sound levels in the human hearing frequency spectrum). The overall mean of the sound levels recorded for the Cessna were 62.48 dBA at 6,400 feet MSL and 59.4 dBA at 7,400 MSL. For the helicopter, the overall mean levels were 62.68 dBA at 6,400 feet MSL and 61.35 dBA at 7,400 MSL. The results indicate that the sound level decreased noticeably as the fixed-wing aircraft moved from 1,000 feet below the rim up to rim level. The helicopter, however, registered only a slight reduction in surface noise impact in the rim level flyover from 1,000 feet lower. Presumably, actual noise levels would be lower at the floor of the canyon, 2,000 feet below the elevation of the test equipment.

The FAA recognizes that the conclusions that can be drawn from such a test are limited, and that full consideration of actual noise impacts on the Park surface will not be possible until the completion of the 2-year noise study contemplated by the Department of the Interior. However, the preliminary conclusions of the August 1986 test tend to support the FAA's approach in the rule adopted, which is to restrict fixed-wing traffic to altitudes at or above the approximate level of the south rim, and to place helicopters 500 feet to 1,000 feet lower for traffic separation.

The rule adopted by the FAA provides that an aircraft may not be operated within the Special Flight Rules Area below 9,000 feet MSL, unless operated in accordance with certain route and altitude restrictions or otherwise authorized by the FAA Las Vegas Flight Standards District Office. The rule specifies different altitudes for transient operators and tour operators, eastbound and westbound traffic, and helicopter and fixed-wing traffic, to separate different types of operations to the maximum extent practical. In order to obtain a sufficient number of operating altitudes for traffic separation below the base of controlled airspace at 9,000 feet MSL, the rule uses the airspace for several thousand feet below 9,000 feet MSL. However, with the exception of the routes west of Diamond Creek, discussed below, the minimum altitudes used are above or only slightly below the elevation of the canyon's south rim. In most cases, the minimum altitudes are 4,00 feet or more above the Colorado River. In addition to minimum altitudes, the rule defines certain especially noise-sensitive areas, discussed in more detail below, in which no transient flights or commercial tours are permitted below 9,000 feet MSL.

The altitude restrictions for transient aircraft are 8,000 feet MSL eastbound and 8,500 feet MSL westbound, with a 6,500 feet MSL route in the west canyon area. Operation by transient aircraft at lower altitudes would not be permitted without express authorization from the Flight Standards District Office, which would normally not be granted for sightseeing flights. Therefore, general aviation flights, which before the implementation of SFAR 50 could operate virtually down to the surface of the canyon floor under FAR § 91.79, will be required to operate at or above those altitudes. With the exception of one area of high terrain near the north rim overlook, the general aviation altitudes are above both the north and south rims of the canyon in all areas.

The Las Vegas (LAS) Flight Standard District Office (FSDO) will authorize qualifying commercial air tour operators to operate in the area, under specific conditions contained in their operations specifications. The minimum altitudes at which the tour operations will be authorized will be as follows. In the western sector (western boundary of the area to Diamond Creek), the minimum authorized altitudes will be 2,500 feet MSL for helicopters and 3,000 feet MSL for fixed wing aircraft. While these altitudes are below the south rim elevation in this area, the interest in minimizing aircraft noise in this sector is reduced by the fact that the river in this area already experiences heavy motorboating and recreational use. Also, NPS has not identified any noise sensitive areas in this sector. Finally, the minimum altitudes are substantially higher than some tour operators have flown in the past.

In the central sector (Diamond Creek to Havasu Canyon), the minimum altitudes authorized will be 5,500 feet MSL for helicopters and 6,000 feet MSL for fixed wing generally, and 6,500 feet MSL helicopter and 7,500 feet MSL fixed-wing above Supai Village. The north rim elevation in this sector averages about 6,000 feet, while the south rim varies from about 5,500 feet to 6,600 feet. In general, the tour routes will climb to higher altitudes heading eastbound as the terrain rises.

In the eastern sector (Havasu Canyon to the eastern boundary), the minimum authorized altitudes will be 6,500 feet MSL for helicopters and 7,500 feet MSL for fixed wing. The elevation of the north rim in this area varies from approximately 5,800 feet to 8,500 feet; the south rim elevation varies from approximately 5,500 feet to 7,500 feet. For comparison, the elevation of the Colorado River in this area averages about 2,400 feet.

In the central and eastern sectors, which contain several noise-sensitive areas, the minimum altitude imposed by the FAA in the tour operators' operations specifications will be higher than altitudes used by some of the operators in the past. These altitudes are not above the highest point of both rims at every point, but the altitudes do approximate the level of the lower rim of the canyon through that area and virtually preclude sustained operation "in" the canyon. As a result, the minimum altitudes required by the rule for tour operators, general aviation aircraft, and military aircraft are substantially higher than required by existing FAA regulations, 14 CFR 91.79, and higher than the previous flight altitudes used by some operators.

Many of the commenters who criticized the altitudes proposed by the FAA suggested that FAA was simply preserving the existing aircraft

overflight situation, which they considered unacceptable. The FAA disagrees. The agency believes that the minimum altitudes imposed by the rule are a beneficial change in current procedures and will have a positive effect on aircraft noise impact at the Park. Setting those altitudes a few hundred feet higher in the central and eastern sectors to coincide with the precise rim level, even if it could be determined, would produce very little additional reduction of noise on the Park surface and would cause substantial operational problems for pilots, by compressing traffic into a smaller vertical airspace. Setting minimum altitudes substantially above the surface of the canyon rim, as requested by some commenters, was not proposed by the FAA. Such altitude restrictions would interfere with ATC-controlled traffic in the National Airspace System; would act as a bar to flight through the area for many aircraft due to decreased aircraft performance at high density altitudes and/or pilot and passenger oxygen use requirements; and would have potential impacts on the air tour industry which are not supportable on the basis of noise impact data available at this time.

The imposition of rim-level minimum altitudes in the western sector of the Special Flight Rules Area was not considered warranted, in view of the lesser impact of aircraft noise on the surface in that sector.

Aircraft Noise—Avoidance of Noise-Sensitive Areas.

A number of commenters suggested that the avoidance of certain noise-sensitive sites in the canyon was preferable to, or necessary in addition to, the restriction of aircraft to high altitudes. The primary criteria for noise sensitivity in the sites suggested were the number of people present in an area and the particular expectation of quiet by persons in a particular area, even if the number of such persons is relatively small. It was also suggested that areas of bighorn sheep populations and peregrine falcon nesting areas should be avoided.

As with recommendations for certain minimum altitudes, the comments requesting avoidance of particular areas by aircraft generally were not supported by technical data. Also, the locations of wildlife populations were not specified, and the information submitted on the impact of aircraft overflight on wildlife in the canyon to date is inconclusive. The FAA expects that the comprehensive study under consideration by the Department of the Interior would provide much more detailed and authoritative information on these subjects.

However, notwithstanding the lack of definitive technical supporting information, the commenters who requested avoidance of certain areas by overflying aircraft were nearly unanimous in the areas suggested for such protection. Moreover, the support for avoidance of low-altitude flight over certain areas was very broadly based, including not only environmental groups but also air tour operators, the Aircraft Owners and Pilots Association, and general aviation pilots. Accordingly, the FAA believes it appropriate at this time to proceed with designation of areas for avoidance of aircraft overflight up to the upper limit of the Special Flight Rules Area, 9,000 feet MSL.

Many of the tour operators commenting on the proposal either now operate, or have proposed to operate, on routes that avoid certain areas of the canyon identified as particularly noise-sensitive. The Las Vegas FSDO, in approving commercial tour routes, has notified operators that their routes must avoid the Grand Canyon Village area, Deer Creek and Thunder Falls, the north rim lookout at Cape Royal, Desert View, Point Sublime, and Toroweap to the maximum extent practical.

To make these restrictions regulatory, and to apply them to all operators equally, the regulation adopted specifically identifies the following areas as noise-sensitive areas:

—Toroweap Overlook.
—The Thunder River/Deer Creek Falls/Tapeats Creek area north of a line 1 mile north of the Colorado River. (The southern boundary will permit westbound transient aircraft to follow the river through the area at 8,500 feet MSL. Eastbound transient aircraft and all tour operators will be routed well to the south of area.)
—The South Rim/Grand Canyon Village area extending north to Phantom Ranch.
—The North rim area from Outlet Canyon to Cape Royal.
—The watchtower at Desert View Overlook.

The areas are defined in the rule in terms consistent with air navigation. The regulation prohibits flight in the areas except when required by safety or some Park-related purpose. An additional limited exception to the South Rim/Phantom Ranch area is provided for aircraft landing at or taking off from Grand Canyon National Park Airport or Tusayan Airport.

Several commenters also requested that the Point Sublime area be designated a flight-free zone. The NPS did not include this area, however, and the FAA believes that the 500-foot terrain clearance restriction is sufficient to avoid the archeological site at Point Sublime.

General aviation operations.

SFAR-50 originally restricted general aviation flights to 9,000 feet temporarily to provide separation of transient general aviation traffic from the regulated commercial operations until procedures could be developed for transient general aviation flight below that altitude. Comments on Notice 86–21 or on the SFAR were received from the Aircraft Owners and Pilots Association (AOPA), the Arizona Pilots Association, the Experimental Aircraft Association (EAA), the Soaring Society of America, and several individual pilots. These commenters criticized the exclusion of general aviation operations from airspace in which commercial operations would be permitted, on grounds of fairness and on the basis that general aviation aircraft were not involved in the June 1986 accident and are not the primary source of aircraft noise in the Park. Several of the commercial tour operators commenting on the proposal also supported the right of general aviation operators for access to the same general airspace as the tour operators.

The Arizona Pilots Association also objected to the characterization of general aviation pilots as exclusively transient operations by pilots inexperienced with flying above the canyon. While the FAA agrees that many local pilots are undoubtedly experienced in flying in that area, the agency continues to believe that many of the general aviation pilots operating above the canyon are on a one-time or infrequent flight in the area and do not have such experience.

Various alternatives to the 9,000 foot limitation were suggested by the Arizona Pilots Association, EAA, AOPA, and several other commenters, including development of standard procedures and indication of these procedures on flight charts.

The rule adopted contains procedures for four basic transient procedures for flight in the Special Flight Rules Area. The routes are regulatory rather than advisory, but incorporate some degree of flexibility for varying operational needs. The four basic routes are an eastbound route at 8,000 feet MSL; a westbound route at 8,500 feet MSL; a west canyon route between Pearce Ferry and Diamond Creek at 6,000 feet MSL eastbound and 6,500 feet MSL westbound; and a direct route from

Grand Canyon National Park Airport to Las Vegas, also used by tour operators. Pilots flying the routes will be required to remain to the right of the river and to avoid the noise-sensitive areas identified in the rule.

Designation of specific transient routes and commercial tour routes generally reserves different altitudes for opposite-direction traffic and different types of operations (such as fixed-wing and helicopter). The routes do not in any way assure separation of individual aircraft. Pilots using the routes are in a VFR environment and remain fully responsible for seeing and avoiding other aircraft. Also, the routes do not relieve the pilot from compliance with any other Federal Aviation Regulation, including FAR 91.79, Minimum Safe Altitudes.

The routes will be indicated on the sectional aeronautical chart to be published on September 24, 1987, and in the meantime will be indicated in Class II Notices to Airmen (NOTAM's). The procedures as described in the rule are clear and simple even without a chart depiction, however. Because all information will be furnished in charts and publications, no briefing will be required before operation on the routes. The FAA, in Notice 86–21, requested comments on whether a briefing should be required before operation in the area. Most comments on the briefing opposed the idea. The FAA believes that a briefing requirement, if adopted, would impose an unacceptable burden on the FAA facility or facilities responsible for providing the briefings. Also, it would be difficult to track which pilots had had a recent briefing and which had not. Accordingly, the FAA will publish the procedures and information needed to operate the routes, but the agency does not see the further need for a briefing and will not require a briefing for such operations.

The routes permit transient flight in the same areas of the canyon as the routes authorized for the air tour operators. The transient routes are at different altitudes than the tour routes, simply for separation of the transient traffic from the relatively heavy tour operator operations. Because helicopter routes are assigned to the altitudes immediately below the fixed-wing tour routes, the transient routes are the next available higher altitudes which can be maintained throughout the Special Flight Rules Area. Basically, these altitudes are 8,000 feet MSL eastbound and 8,500 feet westbound. These altitudes vary from 500 feet to 2,000 feet above the comparable fixed-wing tour route altitudes. While at most locations the altitudes are to some degree above the rim of the canyon, they provide a view of the canyon comparable to that available to the tour operators throughout the canyon. Finally, pilots who elect to operate above 9,000 feet MSL may avoid all restrictions associated with the Special Flight Rules Area.

Accordingly, transient operations are distinguished from commercial tour operations only to the extent that they are assigned a slightly higher altitude stratum, for separation.

Several commenters requested that the FAA simply adopt a single set of tour routes and permit or require all operators to use them, as is done on an advisory basis at Niagara Falls, NY. The FAA rejected this suggestion for several reasons. First, it would tend to concentrate all aircraft overflights of the canyon at certain altitudes, resulting in compression of traffic. Second, the tour routes are more complex than those appropriate for a transient operator's one-time flight over the canyon, and it was not practical to develop a single set of routes which served both purposes. Also, conveying the degree of information required to operate on the existing air tour routes would require a briefing of the transient pilot.

Commenters objected to such a briefing requirement, and the FAA found it to be impractical from a resource standpoint in any event. Finally, the models offered for common routes, such as Niagara Falls, NY, involved small areas with very simple procedures. The size of the Grand Canyon, the complexity of the canyon terrain, and the high altitudes involved make a simple, common procedure for all operators impractical.

Impacts on commercial air tour operations.

In comments on Notice 86–21, the Grand Canyon Flight Operators Association (GCFOA) and others expressed concern about delays in approval of the operators' Part 135 operations specifications prior to implementation of the temporary rule. However, all operators that have applied for the operations specifications amendments have received approval at this time.

GCFOA and several individual tour operators generally supported the regulation. Grand Canyon Airlines suggested that commuter airline standards be applied to all Part 135 operators conducting tour flights at the canyon. The FAA believes that the application of Part 135 standards to all commercial tour operators is sufficient, and that the added imposition of commuter standards to all operators is not required.

The National Transportation Safety Board (NTSB) strongly supported the prohibition on commercial operations conducted under Part 91 in the Special Flight Rules Area. The NTSB also supported the requirement that commercial operators comply with approved routes and altitudes and make position reports on common frequencies. No other comments were received objecting to the prohibition on commercial tour flights under Part 91.

Commercial helicopter operations.

Individual commercial helicopter tour operators at the Grand Canyon, as well as the GCFOA and the Helicopter Association International (HAI), objected to the requirement to remain at least 500 feet from terrain in the canyon. HAI and the individual helicopter operators also requested that helicopters be authorized to operate below the rim of the canyon. The primary objection to the 500-foot restriction was that it would make helicopter tours of the Anasazi ruins near Point Sublime commercially infeasible, because the ruins could not be viewed adequately from 500 feet away. One operator stated that it currently hovers approximately 100 feet away from the ruins on its current tours. Operators also claimed that the restriction made helicopter tours less competitive with fixed-wing tours.

The FAA proposed the 500-foot limitation for both environmental and operational reasons. The rule does not affect fixed-wing Part 135 operations, which are already required by FAR 135.203 to remain 500 feet from terrain. The rule does serve a safety purpose with respect to Part 91 operations, which are not restricted as to distance from terrain in sparsely populated areas (as long as they remain 500 feet from persons, vehicles, boats, and structures). In addition, the limit provides an environmental buffer against aircraft flight which is unnecessarily close to the terrain and the wildlife of the GCNP. While neither environmental groups nor the NPS provided information to support any specific impact of aircraft overflight on wildlife or other park values (such as the Point Sublime archeological site), the FAA believes that the unique characteristics of the Park, and the congressional statement of policy in the Grand Canyon National Park Enlargement Act of 1975, warrant a greater degree of protection for the surface of the Park than is provided by the general minimum safe altitude restrictions in FAR 91.79.

One helicopter operator enclosed a copy of a study by Professor D.S. Brumbaugh on the effects of helicopter flights on the Point Sublime Anasazi site. The study did not consider long term fatigue effects on the structure, but concluded that excessive ground velocity/acceleration and resonant shaking of the walls by a single helicopter would not result in damage. However, the study was based on a minimum distance of 300 feet. The operator who submitted the study represented that "current lateral separation from the ruins is maintained at approximately 100 feet." Because the study did not address long term effects, and because the study conditions were more favorable than those of actual tour flights, the FAA does not agree that information available at this time warrants a conclusion that no protection for the site is appropriate.

Boundaries of the Special Flight Rules Area

The Truxton Canyon Agency noted FAA's statement in the preamble to the proposal that commercial operations to Indian reservations in the Special Flight Rules Area would be authorized, but the Agency requested that this be included in the language of the rule itself. The FAA will not deny any landowners in the Special Flight Rules Area aerial access to their land, including the Indian reservations in the area. Accordingly, the FAA does not believe that it is necessary to include in the rule a statement to the effect that access will continue to the reservations.

The Bureau of Land Management of the Department of the Interior and the Forest Service of the Department of Agriculture both requested that the northern boundary of the Special Flight Rules Area be amended to exclude certain lands administered by these agencies. Both commenters were concerned that the regulation would interfere with their air operations over the government land. The FAA has not altered the boundaries of the Special Flight Rules Area as it was proposed, and that area is indicated on the April 9 edition of the Las Vegas Sectional Aeronautical Chart. However, in response to these comments, the purposes for which authorizations for operation in the Special Flight Rules Area have been expanded to include "aerial access to and maintenance of other property located within the Special Flight Rules Area." Accordingly, the Las Vegas Flight Standards District Office will accommodate any requests by pilots for these agencies for operations over their respective land north of the Grand Canyon National Park.

The National Park Service and several other commenters requested that the Special Flight Rules Area be expanded to include the entire Grand Canyon National Park, especially the northern area up to Marble Canyon. The Special Flight Rules Area boundaries are simpler than the Park boundaries, and several small areas of the Park are excluded. The FAA does not intend to alter the Special Flight Rules Area boundary for this purpose at this time. However, the FAA will monitor the effect of excluding the Marble Canyon area from the rule, and will consider the possible extension of the Special Flight Rules Area to Marble Canyon in the future.

The Special Rule

For the reasons discussed above, the FAA is revising Special Federal Aviation Regulation 50, with the revisions to take effect on the expiration of SFAR 50 on June 15, 1987, and to expire on June 15, 1992. SFAR 50 as amended, designated as SFAR 50–1, will do the following:

1. Continue the Grand Canyon National Park Special Flight Rules Area from the surface to 9,000 feet MSL. The area will be marked on aeronautical charts and described in other pilot information publications.

2. Prohibit operation by any aircraft in the defined area unless (a) the operator complies with specific route and altitude procedures for transient aircraft; (b) the operator is authorized in writing by the FAA Las Vegas Flight Standards District Office to operate in the airspace, (c) the operator holds a Part 135 certificate and has express authorization in its Part 135 operations specifications to operate in the airspace, or (d) the aircraft is on an official search and rescue mission. For flights authorized under paragraph (b) or (c), the authorization will contain specific limitations on the operation, including minimum altitudes. Minimum allowable flight altitudes will be approximately the rim level of the canyon unless there is an operational need for flight below that level (such as landing at one of the reservations). The terms "rim" or "rim level" are not used to describe altitude restrictions in the authorizations because the north and south rims are at different levels and because the rim is too variable in elevation to constitute a practical flight reference for pilots.

3. Prohibit operation in certain noise-sensitive areas unless necessary for emergency or Park-related purposes.

4. Prohibit commercial tour operations below 9,000 feet MSL by Part 91 operators unless they obtain a Part 135 certificate and operations specifications which authorize operation in the Grand Canyon National Park Special Flight Rules Area.

5. Prohibit, except when necessary or when specifically authorized for certain purposes, flight closer than 500 feet to any terrain or structure in the canyon.

6. Require pilots to monitor certain common frequencies and make position reports as specified in their authorization to enter the airspace.

Analysis by section

Section 1 provides that the rule applies to all persons operating under VFR in certain airspace from the surface to 9,000 feet MSL and defines the boundaries of that airspace. Applying the rule to all persons has the effect of applying the rule to military as well as civil pilots. Aircraft operating under IFR would not be operating at the altitudes or in the area covered by the rule. (With the exception of a small portion of VOR airway in the northeast corner of the area, the base of controlled airspace within the designated area is at 9,000 feet MSL or higher.)

Airspace up to 9,000 feet MSL is restricted to include sufficient airspace to permit aircraft to operate at different altitudes for nonconflicting eastbound and westbound operations, for fixed-wing and helicopter operations, and for commercial air tour and transient sightseeing flights. Capping the special area at 9,000 feet MSL permits overflight of the canyon at 9,500 feet without restriction.

The lateral boundaries of the area extend beyond the limits of the park itself to include all of the areas that are commonly subject to canyon sightseeing overflights, including certain Indian reservation land, and to provide simplified boundaries for practical compliance by pilots. Were possible, the boundaries have been established coincident with VOR radials to enable pilots to use aircraft navigation equipment to locate their their position in relation to a boundary line. A cutout from the area has been provided for the GCMP Airport control zone, in recognition of the need for aircraft to descend to and climb out from the airport. The two published instrument approaches to the GCMP Airport are from the southwest and will not be affected by procedures established by this rule.

Section 2 of the rule defines the term "Park" as the Grand Canyon National Park, and "Special Flight Rules Area" as the Grand Canyon National Park Special Flight Rules Area.

Section 3 of the rule sets forth the requirement for authorization for aircraft to operate in the Special Flight Rules Area. An exception to the general requirements is made for emergencies, to clarify that a bona fide emergency landing in the canyon would not violate this rule.

Section 3 prohibits flight in the Grand Canyon National Park Special Flight Rules Area unless the operator complies with specific procedures, routes, and altitudes; unless authorization is obtained from the Las Vegas Flight Standards District Office; or unless the aircraft is on an Air Force-directed search and rescue mission.

Paragraph (a) permits operation over the canyon without further authorization from the FAA if the pilot complies with one of four specific procedures. The four basic routes are an eastbound route at 8,000 feet MSL; a westbound route at 8,500 feet MSL; a west canyon route between Pearce Ferry and Diamond Creek at 6,000 feet MSL eastbound and 6,500 feet MSL westbound; and a direct route from Grand Canyon National Park Airport to Las Vegas. Pilots flying the three tour routes will be required to remain to the right of the river and to avoid the noise-sensitive areas identified in the rule.

Paragraph (b) provides that operation in the area is not prohibited if authorized in writing by the Las Vegas FSDO and conducted in accordance with the conditions of that authorization. The rule states that authorization will normally be provided only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment or evacuation of persons in or near the park; for support of park maintenance or activities; or for aerial access to or maintenance of property located within the area. As mentioned earlier, the NPS has a continuing need for aircraft access to the canyon surface by NPS and contractor aircraft for a wide range of purposes related to operation of the park. The written authorization for such operations will contain conditions similar to those included in the air tour operator's operations specifications. This will ensure that operations in the Special Flight Rules Area are using common procedures and radio frequencies and that the incidence of low altitude aircraft flights is kept to the minimum necessary for operation of the park.

It is not the FAA's intent to deny air access to any surface point within the Special Flight Rules Area. Flights requested by the NPS, Bureau of Land Management, Forest Service, or by representatives of the Indian reservation landing areas will be authorized subject to the standard conditions imposed on all operators within the area. Other requests for flight through the area below the altitude of the routes described in section 3(a), including general aviation and military sightseeing flights, will normally be denied. However, the FAA acknowledges that there may be circumstances in which it would be appropriate to grant authorization for a Part 91 operator to operate in the Special Flight Rules Area using the same routes and procedures used by the Part 135 operators.

Paragraph (c) provides that specific authorization may be incorporated in the operations specifications issued to a Part 135 operator. Operations specifications are detailed rules and conditions for commercial operations which are issued to each holder of a Part 135 certificate. To FAA's knowledge all of the operators currently conducting commercial air tours of the Grand Canyon hold Part 135 certificates. The Las Vegas FSDO, in cooperation with the active tour operators, has developed specific conditions and limitations on the Grand Canyon operation of each such operator. Those conditions and limitations will be included in the operations specifications of each tour operator and will be enforced by the FAA. The provisions will include detailed requirements for routes, altitudes, communications and other procedures, and for pilot experience and equipment.

Authorization through operations specifications will permit continuation of the air tour industry at the Grand Canyon. The industry successfully serves a certain segment of the demand for tourist access to the Grand Canyon and has done so with an impressive safety record over the years. The restrictions promulgated in this rule will, however, make the procedures now voluntarily used by most operators mandatory and enforceable. Second, the prescription of certain minimum altitudes will require some operators to fly at higher altitudes on their tours, in some areas, than they have in the past. The minimum altitudes specified in the operations specifications will in most cases be an MSL altitude near to the approximate elevation of the south rim in each sector of the canyon.

Paragraph (c) will also permit continuation of commercial operations to Indian reservations within the Special Flight Rules Area. Such flights are routinely conducted for tourism at the reservations, for pick-up of river rafters, and for aerial supply and transportation services to the reservations. Operators conducting these flights must hold Part 135 certificates and operations specifications and will be subject to the same general restrictions as the tour operators consistent with the nature of their operations.

Paragraph (d) permits search and rescue (SAR) aircraft under the direction of the U.S. Air Force Rescue Coordination Center to enter the area without prior coordination with the Las Vegas FSDO. SAR missions over the canyon are very infrequent.

Section 4 prohibits operation by all aircraft in 5 defined areas of the Grand Canyon, except in an emergency or when otherwise necessary for safety of flight, or unless authorized by the Las Vegas Flight Standards District Office for a purpose listed in section 3(b). These areas are:

(a) *Toroweap overlook.*

(b) *Thunder River/Deer Creek Falls/ Tapeats Creek.*

(c) *South Rim/Phantom Ranch.*

(d) *North rim Overlook.*

(e) *Desert View.*

Section 5 requires all commercial sightseeing operations to be conducted under a Part 135 certificate, notwithstanding the exception to Part 135 applicability contained in § 135.1(b)(2). The requirement will prohibit tour operations by Part 91 operators, under § 135.1(b)(2), over the canyon below 9,000 feet MSL. To the agency's knowledge all operators currently providing commercial sightseeing flights over the Grand Canyon hold Part 135 certificates, although operations by Part 91 operators have been common in the past.

Section 6 prohibits operation within 500 feet of terrain in the canyon except (1) as necessary for takeoff or landing; (2) if authorized by the Las Vegas FSDO for one of the park operation purposes listed in section 3; or (3) in an emergency. This provision applies the Part 135 restrictions of § 135.203(a)(1) to all operators. The restriction provides certain minimum protections to unique park terrain, wildlife, and archaeological sites until the effect of low altitude aircraft flight can be determined.

Section 7 requires that pilots operating in the area monitor certain frequencies and make radio position reports at the points specified in their authorization. Transient operators will be required to monitor the common frequencies but not to make position reports, in consideration of their lesser familiarity with the terrain features used for reporting points. The FAA believes that the use of common frequencies and periodic reporting of aircraft location, similar to the procedure for a Common Traffic Advisory Frequency at

uncontrolled airports, significantly reduces the risk of midair collision. Therefore, this procedure is made mandatory. Exceptions are incorporated for aircraft required to be in contact with the GCNP control tower or on a USAF-directed search and rescue mission.

The requirement in section 7(b) that all operators monitor certain frequencies has the effect of requiring that all aircraft operating in the Special Flight Rules Area have an operating radio transceiver. The FAA believes that this requirement is important not only for receiving traffic information, through reports by other aircraft, but also for receiving the current Grand Canyon altimeter setting. The altimeter setting in the area often varies considerably from that at Las Vegas or other airports from which Grand Canyon overflights frequently originate. Failure to obtain a current setting could result in operation less than 500 feet from traffic operating at another assigned altitude. The agency believes the impact of the requirement is minimal because virtually all overflying aircraft have radios and because no-radio aircraft may still overfly the canyon above 9,000 feet MSL.

Section 8 provides that SFAR 50–1 will expire on June 15, 1992. The expiration in 5 years will provide for a review of the rule following completion of a Department of Interior noise study and after an extended period of experience with flight operations under the rule.

Request for Comments

While this SFAR is a final rule, the FAA is requesting comments on the provisions of the rule adopted. This further request for comments is in consideration of the great diversity of opinion expressed in the comments received to date, and in recognition of the fact that the transient routes and noise-sensitive areas, while proposed in substance, were not identified in detail until publication of this rule. This rule may be amended in consideration of comments received.

The agency specifically requests comments on the following issues:

1. The dimensions of the Special Flight Rules Area.

Boundaries

The northern boundary of the Special Flight Rules Area could be adjusted to provide more operating space for the Tuweep and Whitmore airports, and to avoid inclusion of Bureau of Land Management and Forest Service lands not related to the Grand Canyon. Second, it may be appropriate to add a northeast extension of the Special Flight Rules Area along the Grand Canyon to Marble Canyon, in consideration of operational and environmental problems with low-altitude aircraft flight in this area. Such an extension would be approximately the width of the Grand Canyon and would extend northeast from the existing boundary as far as the Page Airport Traffic Area.

Altitude

Minimum altitudes for air tour operations and transient sightseeing flights have been established by this rule. Because of the lower terrain of the Grand Canyon in the central and western areas of the canyon, it would be possible to reduce the upper limit of the Special Flight Rules Area in these areas. Possible altitudes could be surface to 8,000 feet MSL in the central sector (Diamond Creek to Havasu Canyon), with a 9,000-foot area around Toroweap Overlook, and surface to 6,000 feet MSL in the western sector (west of Diamond Creek).

Such an action would not reduce the minimum altitudes for aircraft flight over the canyon and would not affect the noise-sensitive area restrictions. It would continue to separate transient and air tour traffic, but could relieve the need to provide special routes for transient aircraft in the western part of the canyon.

2. The dimensions of the noise-sensitive areas described in Section 4 of the SFAR.

Specifically, comments are requested on any operational problems of the areas adopted and, conversely, whether any of the areas could be expanded without significant operational impacts.

3. The transient operating routes and altitudes established in section 3(a) of the SFAR.

Comments are due by October 15, 1987, to the address listed under **"ADDRESSES"** earlier in this document.

Regulatory Evaluation

Benefit-Cost Analysis

The regulatory evaluation prepared for this final rule examines the costs and benefits of special flight rule requirements in the vicinity of the Grand Canyon National Park. This rule impacts operators of airplanes and helicopters under FAR Parts 91 and 135 by adopting the following flight restrictions:

(1) Retain the Special Flight Rules Area established by SFAR 50 from the surface to 9,000 feet MSL in the area of the Park; (2) prohibit flights in this area unless operated in accordance with specific routes, altitudes, and procedures or otherwise specifically authorized by the Las Vegas FSDO; (3) establish boundaries of certain noise-sensitive areas of the Park to be avoided by aircraft overflight up to 9,000 feet MSL; and (4) establish certain terrain avoidance and communications requirements for flights in the area.

Costs

The FAA estimates that the total incremental cost of compliance expected to accrue from implementation of the rule to be negligible. This rule potentially impacts two types of operators (airplane and helicopter) under Parts 91 and 135.

Under Part 91, there are three general classes of operators. The cost impact, if any, on each these operators is briefly described below:

Transient operators represent those local or cross-country general aviation operators who overfly the Park, primarily for sightseeing but also for point-to-point transit. This rule will permit such operators to fly only at specific altitudes while in the Special Flight Rules Area. Although such altitudes will be higher than in recent years, the gratification from viewing the Park is not expected to be significantly reduced. Also, because of the altitude of the terrain, the minimum altitudes specified in the rule will not significantly increase the cost of climbing to altitude for overflight of the canyon.

Part 91 Commercial Tour Operators. Prior to SFAR 50, commercial tour operations under Part 91 in the area were conducted under an exemption from Part 135. This rule will eliminate such operations. It will prohibit commercial tour operations below 9,000 feet MSL by Part 91 operators, although an operator may obtain a Part 135 certificate. Ordinarily, the additional Part 135 training, maintenance requirements, etc., would impose additional costs. However, such costs are not expected to materialize. According to personnel at the Las Vegas FSDO, there have not been any Part 91 commercial operations in the Park since June 1986, though prior to this time there were a small number. The lack of these operators in the area is borne out by the fact that no comments were received from any such operator. Therefore, the FAA estimates that the number of such operators who would have entered the Park over the next four years, if any, would be small. For this reason, the cost impact, if any, on Part 91 commercial tour operators is expected to be negligible.

Other aircraft operators in the area include law enforcement officials, fire fighters, emergency medical teams, Park

maintenance staff, Bureau of Land Management and Forest Service contractors, etc., which may be conducted under Part 91 or Part 135 depending on the operator and the nature of the operation. Prior to SFAR 50, they operated freely over the Park. This rule will allow them to continue operations if they obtain written authorization from the Las Vegas FSDO and comply with conditions of the authorization. Thus, since this rule will not cause any significant changes in necessary flights for such operators, the cost impact, if any, is estimated to be negligible.

Under Part 135, operators of airplanes and helicopters will potentially be impacted. This rule will impose three requirements on these operators. Two of these requirements represent specific routes and altitudes. These two requirements will not significantly affect their operations because virtually all of the operators already voluntarily limit their flight to specific routes that roughly coincide with the routes that will be required by the Las Vegas FSDO under this rule. The new routes will avoid noise-sensitive areas, and the deviations around these areas are neither expected to have an increase in air tour operation costs nor to reduce the quality of the air tour package by excluding popular sites from the routes. Most of these operators voluntarily maintain separation between their respective tours and have traditionally operated at altitudes similar to those in this rule. Although prior to SFAR 50, they could deviate from those altitudes and routes at will, the new regulatory procedures, which include 500– or 1,000–foot separation between helicopters and airplanes, along with the specified higher altitudes, are not perceived by tour operators to impose significant, if any, costs. The third requirement will prevent operators from operating within 500 feet of terrain or structures. For airplanes, this requirement has no cost, because the 500–foot restriction is already incorporated in Part 135, § 135.203. Part 135 helicopter operations are not subject to the § 135.203 restriction, however, and will be affected by the provision in this rule. This requirement is not expected to have a significant cost impact in terms of loss of revenue from sightseeing as some operators have indicated, because most passengers on these helicopter tours take the tours largely for the experience of the helicopter ride rather than close inspection of any particular terrain or structure.

The requirement in section 7(b) that all operators monitor certain frequencies has the effect of requiring that all aircraft operating in the Special Flight Rules Area have an operating radio receiver. While all Part 135 operators would be equipped with radios, there may have been a few no-radio Part 91 operations in the past. The agency believes the impact of the requirement will be minimal because virtually all overflying aircraft have radios and because those few aircraft without radios may still overfly the canyon above 9,000 feet MSL.

Benefits

This rule is expected to generate benefits in terms of enhanced safety and to some extent reduced noise in the Park. Safety benefits will take the form of reduced likelihood of fatalities from midair and canyon wall collisions. Aircraft noise will be reduced by rerouting Parts 91 and 135 traffic around noise-sensitive areas.

This rule will improve safety by regulating both Part 91and Part 135 operators in the Special Flight Rules Area. In the past, there have been a few cases of Part 91 aircraft colliding with the terrain, and one case of a midair collision involving a Part 135 aircraft. This rule is expected to reduce the likelihood of such accidents, especially those involving general aviation pilots unfamiliar with terrain and wind patterns. Further, by specifying procedures, routes, and minimum separation distances for Parts 91 and 135 operators, this rule will enhance safety. The FAA estimates safety benefits in monetary terms by assigning a value of $1 million to each of the lives that are expected to be saved annually as a result of implementing this rule. A recent review of the NTSB data base for Parts 91 and 135 accidents in the vicinity of the Park, revealed that over the past 12 years at least four accidents have occurred and resulted in 41 fatalities. Over this 12–year period, the safety situation near the Park has resulted, on average, in three fatalities annually. While the large majority of the fatalities occurred in two incidents involving air tour aircraft, the projection of three fatalities per year as an average is useful for the purpose of estimating economic benefits of the rule. Therefore, estimates of safety benefits are based on the belief that this rule will reduce the likelihood of three fatalities annually. Supporting this premise is the fact that two of the four accidents noted previously involved only Part 91 operators, and the rule will substantially restrict such operations at low altitude in the canyon area. In monetary terms, safety benefits are expected to amount to an estimated $3 million annually (in 1986 dollars) as the result of this rule.

Another benefit of this rule is aircraft noise reduction. This benefit is extremely difficult to quantify in monetary terms due to its intangible nature. Thus, it is viewed in this evaluation as a qualitative benefit and is assumed to be measured only in terms of gratification. The reduction in aircraft noise that will result from the deviation around noise-sensitive areas and from the higher flight altitudes, especially by Part 91 operators, is expected to increase enjoyment from sightseeing on the ground on the part of tourists and environmentalists, though to what extent cannot be estimated by the FAA.

On balance, in view of the expected cost of compliance and benefits, the FAA concludes that this rule is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to insure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant impact on a substantial number of small entities." For purposes of the RFA, small entities are considered to include small businesses, non-profit organizations, and municipalities but not private individuals. The vast majority of the small entities potentially impacted by this rule are unscheduled Part 135 air taxi operators with nine or less aircraft owned. As a result of using the cost of compliance, which is estimated to be negligible, per small entity and comparing it to the annualized threshold of significant economic impact ($3,700 in 1986 dollars) the FAA concludes that a substantial number of small entities will not be substantially impacted by this rule.

Trade Impact Assessment

This rule is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. This assessment is based on the fact that Part 135 air tour operators impacted by this rule do not compete with similar operators abroad, and their competitive environment is confined to the Grand Canyon area.

Conclusions

For the reasons set forth above under Regulatory Evaluation, the FAA has determined that this final rule [1] is not a major rule under Executive Order

12291, and (2) is not considered significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For the reasons set forth above under Regulatory Flexibility Determination, I certify that, under the criteria of the Regulatory Flexibility Act, this rule will not have a significant impact on a substantial number of small entities.

Publication Date

This amendment is effective on June 15, 1987, less than 30 days after publication in the **Federal Register**, in order to prevent the expiration of SFAR 50 before the amendment, SFAR 50–1, takes effect. The provisions of SFAR 50 are already in effect, and the Special Flight Rules Area is charted on the current Las Vegas Sectional Aeronautical chart. This amendment continues certain of the restrictions in SFAR 50 and relieves other restrictions (as in the case of the minimum altitudes for transient operations), but does not impose any additional restrictions. Accordingly, I find that 30 days notice before publication is not required by 5 U.S.C. 553(d) and that, in any event, good cause exists for publication less than 30 days before the effective date.

List of Subjects in 14 CFR Parts 91 and 135

Aircraft, Aviation safety, Air taxi and commercial operators, Grand Canyon.

Adoption of the Special Federal Aviation Regulation

For the reasons set out above, 14 CFR Parts 91 and 135 are amended as follows:

1. The authority citation for Part 91 continues to read:

PARTS 91 AND 135—[AMENDED]

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. The authority citation for Part 135 continues to read:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

3. Special Federal Aviation Regulation No. 50 in Parts 91 and 135 is redesignated as Special Federal Aviation Regulation No. 50–1 and is revised to read as follows:

Special Federal Aviation Regulation No. 50–1

Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

Section 1. Applicability

This rule prescribes special operating rules for all persons operating aircraft under VFR in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area:

That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at lat. 36°09'30" N., long. 114°03'00" W.; northeast to lat. 36°14'00" N., long. 113°12'00" W.; to lat. 36°30'00" N., long. 112°36'00" W.; to lat. 36°30'00" N., long. 111°42'00" W.; to lat. 35°59'30" N., long. 111°42'00" W.; to lat. 35°57'30" N., long. 112°03'20" W.; thence counterclockwise via the 5 statute mile radius of the Grand Canyon Airport airport reference point (lat. 35°57'09" N., long. 112°08'4.7" W.); to lat. 35°57'30" N., long. 112°14'00" W.; to lat.35°58'00" N., long. 113°11'00" W.; to 35°42'30" N; long. 113°11'00" W; to lat. 35°38'50" N; long. 113°27'00" W; thence counterclockwise via the 5 statute mile radius of the Peach Springs VORTAC to lat. 35°41'20" N; long. 113°36'00" W; thence to the point of beginning.

Section 2. Definitions

For the purposes of this special regulation.

"Park" means the Grand Canyon National Park.

"Special Flight Rules Area" means the Grand Canyon National Park Special Flight Rules Area.

Section 3. Aircraft operations: General

Except in an emergency, no person may operate an aircraft in the Special Flight Rules Area unless the operation—

(a) Is conducted in accordance with the following procedures:

Note: The following procedures do not relieve the pilot from see-and-avoid responsibility or compliance with FAR 91.79.

(1) Unless necessary to maintain a safe distance from other aircraft or terrain—(i) Avoid all areas described in section 4; and

(ii) Remain to the right of the Colorado River, with the river off of the left wing of the aircraft.

(2) *Eastbound*—(i) *Entry. From LAS/west:* From LAS/Lake Meade area, enter the Special Flight Rules Area (crossing the Peach Springs VOR 308° radial) at 8,000 feet MSL. Cross the Shivwits Plateau. Cross the Colorado River and turn to follow the river eastbound.

Alternate LAS entry: Follow Alternate 2 of the west canyon procedure under paragraph (a)(5)(ii) of this section and transition to the eastbound route east of the Shivwits Plateau.

From Peach Springs area: From Pleach Springs/south, cross the Peach Springs VOR 058° radial northbound at 8,000 feet MSL. Intercept and follow the Colorado River north, and maintain 8,000 feet MSL.

(ii) *En route.* Maintain 8,000 feet MSL and follow the Colorado River. Approaching Great Thumb Mesa (at or before intercepting Grand Canyon VOR 300° radial) turn to the southeast for approach to Grand Canyon National Park Airport or for transit through the airport traffic area. Remain south of the south canyon rim and the Grand Canyon VOR 300° radial.

(3) *Northbound from GCN.* Depart Grand Canyon National Park Airport to the east and climb to 8,000 feet MSL. When clear of the Desert View Overlook noise-sensitive area (Grand Canyon VOR 19 DME), turn north along the 19 DME arc to intercept the Colorado River. Follow the river to the north.

(4) *Westbound—(i) Entry. From the east/northeast:* Enter the Special Flight Rules Area in the vicinity of the Little Colorado River at 8,500 feet MSL. Cross the Colorado River and follow the river westward. Remain close to the river except as necessary to avoid noise-sensitive areas identified in Section 4.

From the north/Marble Canyon: Enter the Special Flight Rules Area along the Colorado River at 8,500 feel MSL. Follow the river to the west. Remain close to the river except as necessary to avoid noise-sensitive areas identified in Section 4.

From GCN: Depart the airport to the east and climb to 8,500 feet MSL. When clear of the South Rim/Phantom Ranch noise-sensitive area (Grand Canyon VOR 10 DME), turn north and intercept the Colorado River. Cross the river and turn left to follow the river to the west. Maintain 8,500 feet MSL. Remain close to the river except as necessary to avoid noise-sensitive areas identified in Section 4.

(ii) *En route.* Maintain 8,500 feet MSL and follow the river to the west. Approaching the Shivwits Plateau (Peach Springs VOR 005 degree radial), proceed west across the Plateau or continue to follow the river at 8,500 feet MSL until clear of the Special Flight Rules Area. Remain alert for other aircraft using the GCN-LAS direct route described in paragraph 3. (a)(6).

(5) *West canyon procedure*—(i) *Eastbound leg.* Cross the Peach Springs VOR 310° radial eastbound at 6,000 feet MSL. Intercept and follow the Colorado

River on a southeasterly heading. Maintain 6,000 feet MSL.

(ii) *Return/transition to enroute.* At Diamond Creek (between Peach Springs 025° to 030° radials), where the river turns to the north, comply with one of the following procedures:

Alternate 1. Begin climb to 6,500 feet MSL, turn left to cross the river and follow the river back to the west. Maintain 6,500 feet MSL.

Alternate 2. Begin climb to 8,000 feet MSL and continue to follow the river to the north. Level off at 8,000 feet MSL by Parashant Canyon (or Peach Springs VOR 010° radial) and join main eastbound route described in paragraph (a)(2)(ii) of this section.

(7) *GCN-LAS direct route.* Proceed direct from GCN to Pearce Ferry at 8,500 feet MSL. Remain alert for commercial tour aircraft using the same route.

(8) *Exit from the area.* A pilot operating on one of the routes listed in section 3(a) may exit the area at any time by climbing to an altitude above 9,000 feet MSL.

(b) Is authorized in writing by the Las Vegas Flight Standards District Office and is conducted in compliance with the conditions contained in that authorization. Normally authorization will be granted only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment/evacuation of persons in the vicinity of the Park; for support of Park maintenance or activities; or for aerial access to and maintenance of other property located within the Special Flight Rules Areas. Authorization may be issued on a continuing basis.

(c) Is conducted in accordance with a specific authorization to operate in that airspace incorporated in the operator's Part 135 operations specifications and approved by the Las Vegas Flight Standards District Office. Normally, operations specifications for tour operators will not contain authorization to operate below 2,500 feet MSL in the canyon west of Diamond Creek; 5,500 feet MSL between Diamond Creek and Havasu Canyon; and 6,500 feet MSL from Havasu Canyon east. *Or*

(d) Is a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center.

Section 4. Noise—sensitive areas

Except in an emergency or if otherwise necessary for safety of flight, or unless otherwise authorized by the Las Vegas Flight Standards District Office for a purpose listed in section 3(b), no person may operate an aircraft in the Special Flight Rules Area within the following areas:

(a) *Toroweap Overlook.* Within a 1½ statute mile radius of Toroweap Overlook (north rim at Lava Falls).

(b) *Thunder River/Deer Creek Falls/Tapeats Creek.* Within an area bounded on the south by a line 1 statute mile north of the Colorado River and on all other sides by a circle with a 5-statute mile radius centered on Thunder River Falls.

(c) *South Rim/Phantom Ranch.* Within an area bounded on the west by the Grand Canyon VOR 335° radial; on the south by the Grand Canyon VOR 5 DME arc and the 072° radial to 10 DME; and on all other sides by the 10 DME arc of the Grand Canyon VOR (except when necessary for arrival or departure at Grand Canyon National Park Airport or Tusayan Airport on a route authorized by the Las Vegas Flight Standards District Office).

(d) *North Rim Overlook.* Within an area bounded on the north by the Grand Canyon 20 DME arc; on the west by the Grand Canyon VOR 350° radial; on the south by the Grand Canyon VOR 13 DME arc; and on the east by the Grand Canyon VOR 035° radial to 16 DME, then on a north-south line to the 20 DME arc.

(e) *Desert View.* Within an area between the 14 DME arc and the 19 DME arc of the Grand Canyon VOR, south of the Grand Canyon VOR 050° radial and north of the southern boundary of the Special Flight Rules Area.

Section 5. Commercial sightseeing flights

(a) Notwithstanding the provisions of Federal Aviation Regulations § 135.1(b)(2), nonstop sightseeing flights that begin and end at the same airport, are conducted within a 25 statute mile radius of that airport, and operate in or through the Special Flight Rules Area during any portion of the flight are governed by the provisions of Part 135.

(b) No person holding or required to hold an operating certificate under Part 135 may operate an aircraft in the Special Flight Rules Area except as authorized by operations specifications issued under that part.

Section 6. Minimum terrain clearance

Except in an emergency, when necessary for takeoff or landing, or unless authorized by the Las Vegas Flight Standards District Office for a purpose listed in section 3(b), no person may operate an aircraft within 500 feet of any terrain or structure located between the north and south rims of the Grand Canyon.

Section 7. Communications

Except when in contact with the Grand Canyon National Park Airport Traffic Control Tower during arrival or departure or on a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center, no person may operate an aircraft in the Special Flight Rules Area unless he—

(a) Transmits a position report on the appropriate frequency at each reporting point designated in the operator's Part 135 operations specifications or written authorization to operate in that airspace issued under Section 3, and

(b) Monitors the appropriate frequency continuously while in that airspace.

Section 8. Termination date

This Special Federal Aviation Regulation expires on June 15, 1992.

Issued in Washington, DC. on June 5, 1987.

Donald D. Engen,

Administrator.

[FR Doc. 87-13276 Filed 6-12-87;8:45am]

BILLING CODE 4910-13-M

federal register

Monday
June 15, 1987

Part IV

Department of the Interior

National Park Service

36 CFR Part 59

Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities; Final Rule

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 59

Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This amendment to 36 CFR Part 59 modifies Land and Water Conservation Fund (L&WCF) requirements by permitting wetlands proposed as replacement property to be considered as reasonably equivalent in usefulness with assisted land proposed for conversion to other than public outdoor recreation use. The amendment is necessary in order to implement section 303 of the Emergency Wetlands Resources Act of 1986 which amends section 6 of the L&WCF Act of 1965. The intended effect of this action is the promotion of the conservation of wetlands.

EFFECTIVE DATE: June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Wilson, U.S. Department of the Interior, National Park Service, Recreation Grants Division, Washington, DC 20013–7127 (Telephone: 202/343–3700).

SUPPLEMENTARY INFORMATION: Section 6(f)(3) of the L&WCF Act of 1965 stipulates that changes in use to other than public outdoor recreation at assisted sites may only be made with the prior approval of the Secretary of the Interior and that converted properties must be replaced by substitute properties of at least equal fair market value and of reasonably equivalent location and usefulness. On September 25, 1986, the National Park Service (NPS) published a Final Rule describing the post-completion compliance responsibilities of the program. Conversion requirements are outlined in § 59.3 of the Final Rule. Clarification of the equivalent usefulness criterion appears as § 59.3(b)(3)(i) and is currently applicable to *all* conversion situations. The gist of that section is that replacement property must meet recreation needs which are similar in magnitude and impact as those needs met at the assisted site.

As a result of the passage of the Emergency Wetlands Resources Act of 1986 (Pub. L. 99–645), wetlands are now considered to be of reasonably equivalent usefulness with the property proposed for conversion. All other criteria appropriate in conversion proposals are unaffected by this action. This amendment implements only that change in L&WCF conversion policy explicitly required by section 303 of the Wetlands Act as passed by Congress and signed into law by the President on November 10, 1986. The amendment merely reiterates what has already been made law and is the only practicable means of implementation of the statutory provision. Therefore, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b) and (d), no public comment period is necessary and the amendment is effective immediately on June 15, 1987.

Additional Determinations

1. Compliance with the National Environmental Policy Act (NEPA)

This action does not constitute a major Federal action significantly affecting the quality of the human environment and has been determined to be categorically excluded from the NEPA process. This is a regulation of an administrative nature which responds directly to legislative action (Pub. L. 99–645), the Emergency Wetlands Resources Act of 1986), the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process on a case-by-case basis. Therefore, no environmental assessment or impact statement is required.

2. Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This will not have an annual gross effect on the economy of $100 million or more. This document will not result in adverse effects on competition, employment, investment, productivity, or innovation, and does not pertain to U.S. or foreign-based enterprises in domestic or export markets. The rulemaking will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This document is not a major rule and is therefore exempt from the preparation of a Regulatory Impact Analysis.

3. Paperwork Reduction Act

The information collection requirements of 36 CFR Part 59 have been approved through May 31, 1989 (OMB No. 1024–0047). This amendment does not impact the information collection and recordkeeping requirements of Part 59.

List of Subjects in 36 CFR Part 59

Grant programs, Recreation, Outdoor Recreation acquisition, development, and planning.

In consideration of the foregoing, 36 CFR Part 59 is amended as follows:

PART 59—LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

1. The authority citation for Part 59 continues to read as follows:

Authority: Sec. 6, L&WCF Act of 1965, as amended; Pub. L. 88–578; 78 Stat. 897; 16 U.S.C. 4601–4 *et seq.*

2. Section 59.3 is amended by revising paragraph (b)(3)(i) to read as follows:

§ 59.3 Conversion requirements.

* * * * *

(b) * * *

(3) * * *

(i) Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of outdoor recreation resources and opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site. This criterion is applicable in the consideration of all conversion requests with the exception of those where wetlands are proposed as replacement property. Wetland areas and interests therein which have been identified in the wetlands provisions of the Statewide Comprehensive Outdoor Recreation Plan shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion regardless of the nature of the property proposed for conversion.

Dated: May 18, 1987.

* * * * *

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–13601 Filed 6–12–87; 8:45 am]

BILLING CODE 4310–10–M

federal register

Monday
June 15, 1987

Part V

Department of Transportation

Coast Guard

46 CFR Parts 32, 77, 92, 96, 190 and 195
Miscellaneous Changes; Tank Vessels, etc.; Correction; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 32, 77, 92, 96, 190 and 195

[CGD 84-073]

Miscellaneous Changes; Tank Vessels, etc.; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In the May 15, 1987 issue of the **Federal Register** (52 FR 18360) the Coast Guard published a final rule with the incorrect effective date. That incorrect date also appears in several places in the body of the rule itself.

PARTS 32, 92 and 190—[AMENDED]

This document corrects that date from April 1, 1987, to June 15, 1987. In addition, the April 1, 1987, date is corrected each time it appears, to read June 15, 1987, in the following locations:

§§ 32.01-10, 32.15-15, 32.40-1, 32.40-90, 92.07-10 and 190.07-10 [Amended]

On page 18362; §§ 32.01-10 [d], 32.15-15 [a], 32.15-15 [d], 32.40-1 [a], 32.40-1 [c], and on page 18364: 32.40-90, 92.07-10 [g], 190.07-10 [f].

EFFECTIVE DATE: June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. John Kinsey, (202) 267-2997.

SUPPLEMENTARY INFORMATION: In addition to the corrections noted in the summary, the following changes should be made:

The following typographical errors are also corrected:

§ 32.40-35 [Amended]

In § 32.40-35(d), "ocqupancy" is corrected to read "occupancy".

§ 32.40-40 [Amended]

In § 32.40-40(c), "aingle space" is corrected to read "single space".

In § 32.40-40(c)(1) "wash baain" is corrected to read "washbasin."

Dated: June 5, 1987.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87-13357 Filed 6-11-87; 8:45 am]

BILLING CODE 4910-14-M

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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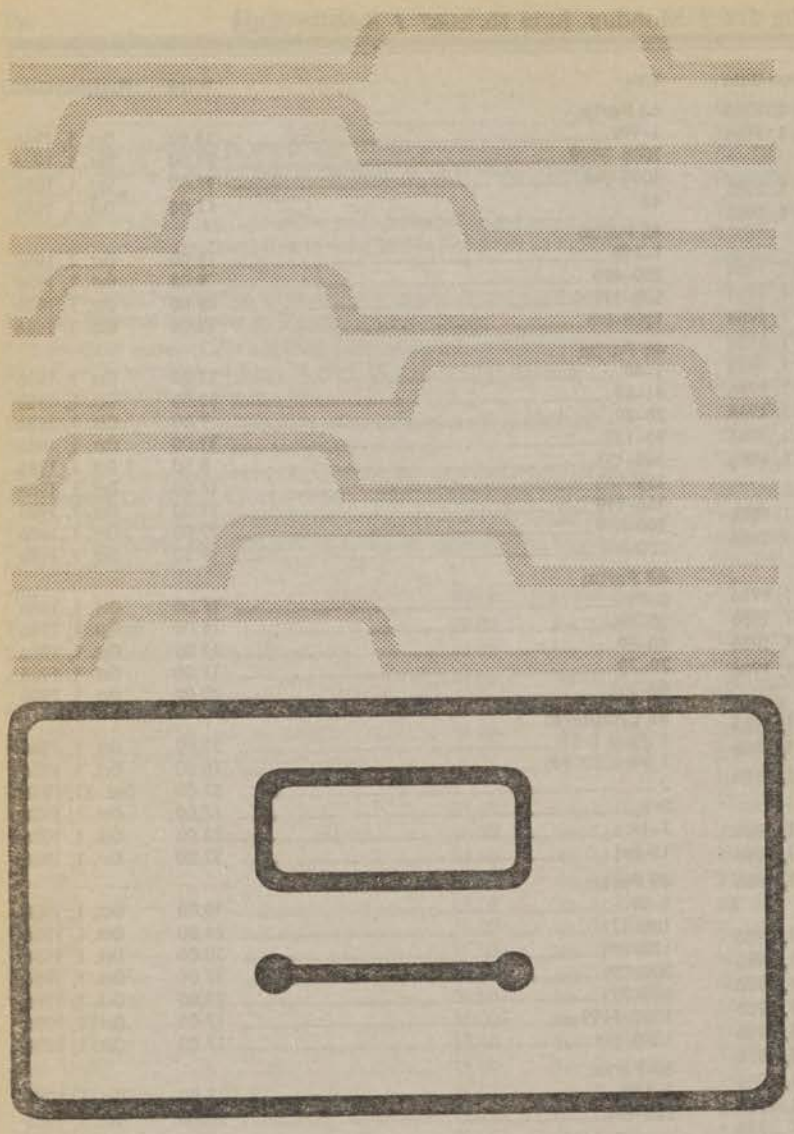

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in the Code of Federal Regulations (CFR)

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